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ABSTRACT

This book contains the text with annotations of the most recent (1961) Code of Professional Ethics from the National Education Association (NEA). Enumerated in the code are four principles of commitment--commitment to the students, the public, the profession, and Professional Employment Practices. Also included in this book are 53 Opinions of the NEA from 1952 to 1967. Topics included in these opinions are blanket applications for employment, acceptance of position during school controversy, the selling of encyclopedias, disparaging remarks about students, discussion of controversial issues in the classroom, the coercion of subordinates to join a professional association, acceptance of gifts, reasons for dismissal, and prohibited speech. (JA)

ED 077897

Opinions

OF THE
COMMITTEE ON
PROFESSIONAL
ETHICS

1969 EDITION

with reference to

THE CODE OF ETHICS OF THE
EDUCATION PROFESSION

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PROFESSIONAL ETHICS—PAST AND FUTURE

The first codes of ethics for teachers were developed and adopted by state associations about the turn of the century. The NEA adopted its first official code in 1929. The period from 1900 to 1960 was marked by a proliferation of codes that were associated with various professional associations rather than with the profession as an entity. As a result, by 1960 only thirty of the sixty-four state associations had adopted the NEA Code of Ethics. There were thirty-four state association codes and many local associations had formulated their own codes.

EMERGENCE OF ONE CODE

The need for one code was apparent, and its preparation was mandated by the 1961 NEA Representative Assembly. To this end the NEA Committee on Professional Ethics sponsored a national conference that brought together over 160 educators representing most of the state associations, many NEA affiliated departments, and a number of other organizations including the National Council of Teachers of English, the Association for Childhood Education International, and prominent educational fraternities and sororities. From this emerged the Code of Ethics of the Education Profession which was adopted by the 1963 Representative Assembly. This Code was subsequently adopted by every affiliated state association and thus became the Code for the profession nationwide.

To prevent the Code from becoming obsolete, the 1963 NEA Representative Assembly instructed the NEA Committee on Professional Ethics to conduct a nationwide study of the Code once every five years for the purpose of keeping it up to date to meet the needs of a dynamic profession. The Committee undertook such a study during 1966-67 similar to that which preceded the 1963 adoption, and reported on needed revisions at the 1968 Representative Assembly. The Code with the revisions adopted at that time is the document presently in force to set the standard for the professional conduct of members of the National Education Association.

OPINIONS OF THE NEA ETHICS COMMITTEE

BASIC EMPHASIS OF THE NEW CODE

Previous codes in education were written for the most part with the classroom teacher in mind. This created problems, even though each code usually contained a note indicating that the word *teacher* was all-inclusive in meaning and intent. To remedy this, the present Code refers throughout to *educators* and was drafted to cover many kinds of problems that are not necessarily related to classroom teaching.

Earlier codes frequently confused standards of competence with standards of ethics. Competence relates to the knowledge, skills, and attitudes that are applied to the task. Ethics, by contrast, deals with standards of acceptable behavior on the part of the practitioner. Although competence and ethics are inextricably related, the failure to distinguish adequately between the two in the formation of previous codes often impaired any serious move to implement them. Some members of the profession feared that ethics committees would attempt to judge competence—an area clearly beyond the scope of the ethics program. The new Code reflects the effort to restrict the sections following each commitment to standards of acceptable professional behavior on the part of the practitioner.

In many instances, prior codes permitted a rather free intermingling of statements relating to the highest ideals of the profession as distinguished from those relating to specific standards. In this Code of Ethics the ideals are set forth in the Preamble and in each of the commitments. The sections that follow each commitment are intended to be implemented and constitute accepted standards of professional behavior on the part of educators.

IMPLEMENTING THE NEW CODE

Each section of the Code is a relatively brief statement of an important principle. In support of such, a paper, a chapter, or even a book might be written to spell out the ramifications of intent. As busy people, most educators are concerned essentially with the statement of basic principles. Those who work on committees or commissions that consider professional ethics, those who have concerns about specific provisions, those who may be charged with unethical behavior, and scholars of the profession all require a great deal more knowledge about specific application of various provisions. It is to meet this need that this volume of opinions is presented.

PROFESSIONAL ETHICS—PAST AND FUTURE

A code of ethics, as such, is simply a collection of words. These words have only as much meaning as the profession is willing to attach to them. The task ahead is one of implementing the Code, both through the professional associations and by assuring that adherence to the Code *as it is interpreted by the profession* ultimately becomes a consideration in the certification and employment of educators. It is this major challenge that faces the ethics program in the next ten years.

Experience has well demonstrated that implementation, to be fully effective, must rely on all levels of the professional associations—local, state, and national. There must be a coordinated effort, with the local association assuming the basic responsibility for the program.

One key aspect of implementation is that of handling cases. Most cases are too minor to require the attention of a state or national body. Yet, a number of the initially minor cases that have gone unattended have created some serious problems for the profession.

Unfortunately the responsibility for the enforcement of minimum ethical standards was abdicated by professional associations too often. The resulting vacuum was sometimes filled by concerned school officials who placed upon the Code their own interpretations of unprofessional behavior. As a result, individuals wielded considerable power without a system of checks and balances and frequently without provision of due process to the concerned parties. The remedy to this situation lies in the professional association providing machinery for Code enforcement and guaranteeing due process to both the complaining and responding parties.

SUGGESTED PROCEDURES

Certain general procedures may be established as common to all professional education associations interested in developing an effective program. Among these is the adoption of the Code of Ethics of the Education Profession as the code governing membership in these associations. To be in a legally sound position, associations should provide a bylaw amendment calling for adherence to the Code as a condition of membership.

The next step, then, is to develop the confidence of the profession in its ability to apply the Code maturely through professional association channels. Ultimately, the aim is to secure legal recognition that adherence to the Code as it is interpreted by the profession is a recog-

OPINIONS OF THE NEA ETHICS COMMITTEE

nized condition for maintaining a certificate and continuing on a contract. Such recognition will mean that all in the profession must observe the provisions of the Code—whether or not they belong to a formal professional association. Some districts have placed the Code in their personnel policies. This is unwise since it appears to assign the responsibility for interpretation of the Code to lay members of the board of education. A system of professional principles or rules should be interpreted officially only by professional practitioners.

The NEA Committee on Professional Ethics published in 1969 its procedures for receiving and acting upon complaints of Code violation under the title "Enforcement of the Code of Ethics of the Education Profession." These detailed procedures can be adapted by affiliated state and local associations to conform to their pattern of organization and needs. Single copies are available upon request to the committee and multiple copies are available for a small fee.

The state association plays a key role in implementation. In the majority of instances the state association will be vested with primary jurisdiction in case processing. Also among its responsibilities is that of providing the leadership and stimulation for local association leadership.

The NEA Committee on Professional Ethics will provide a clearing house for interpretations of the Code. It will conduct hearings on cases which come within its primary jurisdiction and consider appeals on cases that are so referred to it. Also it will provide the basic leadership in the project for periodically reviewing and recommending revisions in the Code.

Because of recent developments, the education profession is on the threshold of an exciting era akin to the twenty years enjoyed by medicine following the issuance of the Flexner Report in 1910. The recognition of the significance of professional ethics and the implementation of the new Code is one of the most challenging opportunities for progress in status and strength of the profession. The achievement of this advance calls for the active support of each and every educator.

THE CODE OF ETHICS
of the
EDUCATION PROFESSION
with Annotations

PREAMBLE

The educator believes in the worth and dignity of man. He recognizes the supreme importance of the pursuit of truth, devotion to excellence, and the nurture of democratic citizenship. He regards as essential to these goals the protection of freedom to learn and to teach and the guarantee of equal educational opportunity for all. The educator accepts his responsibility to practice his profession according to the highest ethical standards.

The educator recognizes the magnitude of the responsibility he has accepted in choosing a career in education, and engages himself, individually and collectively with other educators, to judge his colleagues, and to be judged by them, in accordance with the provisions of this code.

PRINCIPLE I—*Commitment to the Student*

The educator measures his success by the progress of each student toward realization of his potential as a worthy and effective citizen. The educator therefore works to stimulate the spirit of inquiry, the acquisition of knowledge and understanding, and the thoughtful formulation of worthy goals.

In fulfilling his obligation to the student, the educator—

1. Shall not without just cause restrain the student from independent action in his pursuit of learning, and shall not without just cause deny the student access to varying points of view.

**Opinion 19.* There is no provision of the Code which governs the selection and use by an educator of instructional materials. Good practice permits comparison of branded products but no recommendation by an educator of a particular brand.

Opinion 30. An educator may properly identify and express his own point of view in classroom discussion, but in doing so assumes certain correlative responsibilities.

^{*} See statement on "Opinions," page 52.

OPINIONS OF THE NEA ETHICS COMMITTEE

2. Shall not deliberately suppress or distort subject matter for which he bears responsibility.

Opinion 30. An educator may properly identify and express his own point of view in classroom discussion, but in doing so assumes certain responsibilities.

Opinion 31. It is improper for an educator in a report to parents to give a false impression as to a student's general adjustment in the classroom.

Opinion 37. It is improper for an educator deliberately to assign a grade that reflects factors irrelevant to the performance or progress of the student.

3. Shall make reasonable effort to protect the student from conditions harmful to learning or to health and safety.

Opinion 39. A principal has an obligation to disclose confidential information about a pupil to a school counselor if access to the information is essential to the counselor's performance of his professional duties.

4. Shall conduct professional business in such a way that he does not expose the student to unnecessary embarrassment or disparagement.

Opinion 13. It is improper for an educator to make remarks in public reflecting on a student's abilities and family background. However, an educator has the right and often the duty to confer in confidence with colleagues or authorized agencies regarding a student's problems in conduct and adjustment.

Opinion 24. It is improper to reveal confidential information about the family background of a student who is causing difficulty in the classroom, even though the motive is to secure the cooperation of fellow students during the period of the child's adjustment.

Opinion 51. Even though the exchange of confidential information is necessary for professional purposes, the failure to provide safeguards against indiscriminate disclosure constitutes an ethical violation.

5. Shall not on the ground of race, color, creed, or national origin exclude any student from participation in or deny him benefits under any program, nor grant any discriminatory consideration or advantage.

6. Shall not use professional relationships with students for private advantage.

Opinion 9. While the right to augment teaching income by outside employment is recognized under the Code, solicitation by an educator of parents of students under his immediate jurisdiction is improper.

CODE OF ETHICS, PRINCIPLE II

Opinion 18. While the right to augment teaching income is recognized under the Code, an educator who solicits parents of students in his class to purchase musical instruments is acting improperly.

Opinion 28. It is improper for an educator to reveal confidential information to parents about the disabilities of students in his class.

Opinion 40. It is improper for an educator to try to convert to his religious faith the parents of students to whom he has the relationship of teacher.

7. Shall keep in confidence information that has been obtained in the course of professional service, unless disclosure serves professional purposes or is required by law.

Opinion 24. It is improper to reveal confidential information about the family background of a student who is causing difficulty in the classroom, even though the motive is to secure the cooperation of fellow students during the period of the child's adjustment.

Opinion 28. It is improper for an educator to reveal confidential information to parents about the disabilities of students in his class.

Opinion 39. A principal has an obligation to disclose confidential information about a pupil to a school counselor if access to the information is essential to the counselor's performance of his professional duties.

Opinion 51. Even though the exchange of confidential information is necessary for professional purposes, the failure to provide safeguards against indiscriminate disclosure constitutes an ethical violation.

8. Shall not tutor for remuneration students assigned to his classes, unless no other qualified teacher is reasonably available.

Opinion 6. Tutoring for compensation, including one's own students, is proper if in accordance with approved policies. Suggested policies considered.

Opinion 27. A director of a school band may properly give private lessons to members of the band and to students in his music classes, provided the arrangements conform to policies of the school board. In the absence of board policies the arrangements should be approved by the chief school officer or the local professional association.

PRINCIPLE II—*Commitment to the Public*

The educator believes that patriotism in its highest form requires dedication to the principles of our democratic heritage. He shares with all other citizens the responsibility for the development of sound public policy and assumes full political and citizenship responsibilities. The educator bears particular responsibility for the development of policy relating to the extension of educational opportunities for all and for interpreting educational programs and policies to the public.

OPINIONS OF THE NEA ETHICS COMMITTEE

In fulfilling his obligation to the public, the educator—

1. Shall not misrepresent an institution or organization with which he is affiliated, and shall take adequate precautions to distinguish between his personal and institutional or organizational views.

Opinion 38. It is improper for a minority group of a local association to submit a salary proposal directly to a board of education without advance consultation with the superintendent and notice of its intentions at the meeting when the majority proposal is adopted.

2. Shall not knowingly distort or misrepresent the facts concerning educational matters in direct and indirect public expressions.

Opinion 46. Those who produce instructional materials for sale purposes to earn a profit should not be expected to subsidize a school district program that does not elect to provide audiovisual materials in sufficient measure. "Standards of fair use" should be observed by educators.

Opinion 47. Members of the profession who participate in reporting false attendance figures are in violation of ethical practice. Educators, as public officials, have an obligation to observe the laws relating to state financing of public schools.

3. Shall not interfere with a colleague's exercise of political and citizenship rights and responsibilities.

Opinion 26. Educators may properly urge friends and acquaintances to support a school bond issue and candidates in a school board election who favor its passage.

Opinion 33. An educator, in the exercise of his professional judgment, must decide for himself the kind and extent of his community activities.

4. Shall not use institutional privileges for private gain or to promote political candidates or partisan political activities.

Opinion 26. Educators may properly urge friends and acquaintances to support a school bond issue and candidates in a school board election who favor its passage.

Opinion 30. An educator may properly identify and express his own point of view in classroom discussion, but in doing so assumes certain responsibilities.

Opinion 32. It is improper for educators to distribute campaign literature supporting individual candidates in a school board election on school property and on school time.

Opinion 42. It is improper to use school facilities to solicit funds in behalf of candidates for public office on school property during school time.

CODE OF ETHICS, PRINCIPLE III

5. Shall accept no gratuities, gifts, or favors that might impair or appear to impair professional judgment, nor offer any favor, service, or thing of value to obtain special advantage.

Opinion 18. While the right to augment teaching income is recognized under the Code, an educator who solicits parents of students in his class to purchase musical instruments is acting improperly.

Opinion 21. An offer by a commercial organization to pay the cost of an association banquet on condition that the association accept as main speaker a person of the donor's selection may properly be accepted by the association.

Opinion 50. The educator is obliged to present skilled service to the maximum of his ability despite any personal reaction to the student. The term gratuities or gifts must be seen as kinds of favors or considerations, in the larger sense, that may have the power to improperly influence skilled service. It is not only important that the teacher's professional judgment remain unbiased, it is equally important that it appear unbiased to the potential observer.

PRINCIPLE III—*Commitment to the Profession*

The educator believes that the quality of the services of the education profession directly influences the nation and its citizens. He therefore exerts every effort to raise professional standards, to improve his service, to promote a climate in which the exercise of professional judgment is encouraged, and to achieve conditions which attract persons worthy of the trust to careers in education. Aware of the value of united effort, he contributes actively to the support, planning, and programs of professional organizations.

In fulfilling his obligation to the profession, the educator—

1. Shall not discriminate on the ground of race, color, creed, or national origin for membership in professional organizations, nor interfere with the free participation of colleagues in the affairs of their association.
2. Shall accord just and equitable treatment to all members of the profession in the exercise of their professional rights and responsibilities.

Opinion 20. There is no provision in the Code which governs an administrator's use of an intercommunication system without the knowledge of a educator, but such use can cause tension and resentment on the part of the educator and is contrary to good personnel practice.

OPINIONS OF THE NEA ETHICS COMMITTEE

Opinion 45. The practice of monitoring a classroom without the knowledge of the teacher is unethical. The practice of criticizing teachers via the intercommunication system is clearly unethical.

Opinion 53. It is improper to use coercive means to restrain the full and free expression of opinion by a colleague, even though that expression may be controversial or unorthodox.

3. Shall not use coercive means or promise special treatment in order to influence professional decisions of colleagues.

Opinion 36. It is improper for a chief school officer to give verbal assurance of a favorable recommendation and later issue an unfavorable recommendation.

Opinion 48. Professional organizations, to be effective and meaningful to their members, must be voluntary and emphasize the improvement of service. The administrator who coerces his subordinate to join an association by threatening or implying professional retaliation has acted improperly.

Opinion 49. Professional autonomy involves the principle that the best results in education are obtained when decisions are left to people who are best informed about them. Alteration of a professional decision can properly stem only from clear evidence of incompetence, the presence of bias, or indications of unethical behavior.

Opinion 53. It is improper to use coercive means to restrain the full and free expression of opinion by a colleague, even though that expression may be controversial or unorthodox.

4. Shall withhold and safeguard information acquired about colleagues in the course of employment, unless disclosure serves professional purposes.

Opinion 8. Unverified charges made by a parent against a professional educator may properly be reported to school authorities in the interest of preserving the integrity of the educational program and the profession.

Opinion 45. The practice of monitoring a classroom without the knowledge of the teacher is unethical. The practice of criticizing teachers via the intercommunication system is clearly unethical.

5. Shall not refuse to participate in a professional inquiry when requested by an appropriate professional association.

Opinion 2. An educator's refusal to cooperate in an investigation being conducted by a professional association is not contrary to the Code, but in the absence of a satisfactory explanation it is a disservice to the profession.

6. Shall provide upon the request of the aggrieved party a written statement of specific reason for recommendations that lead to the

CODE OF ETHICS, PRINCIPLE IV

denial of increments, significant changes in employment, or termination of employment.

Opinion 10. An administrator should consult with an educator about parents' complaints before taking administrative action. While it may be advisable for an administrator to discuss parents' complaints, he is not required to do so where no administrative action is contemplated.

Opinion 16. It is improper for a chief school officer to recommend a transfer because of complaints of parents without notice to and prior consultation with the educator and an opportunity for the educator to state his side of the case.

Opinion 36. It is improper for a chief school officer to give verbal assurance of a favorable recommendation and later issue an unfavorable recommendation.

Opinion 52. It is improper for an administrator to refuse to provide on request from the aggrieved party a written statement of the reasons for recommendations which affected that party's employment.

7. Shall not misrepresent his professional qualifications.

8. Shall not knowingly distort evaluations of colleagues.

Opinion 11. It is improper for an administrator to withhold in a reference information about unresolved, current difficulties which affect an educator's competence.

Opinion 23. An administrator may properly withhold in a letter of reference information about past difficulties which have been resolved and which do not affect an educator's present competence.

Opinion 25. It is improper for an administrator to imply in a letter of reference that he had some reservation about an educator's competence if the educator's record has been outstanding.

PRINCIPLE IV—*Commitment to Professional Employment Practices*

The educator regards the employment agreement as a pledge to be executed both in spirit and in fact in a manner consistent with the highest ideals of professional service. He believes that sound professional personnel relationships with governing boards are built upon personal integrity, dignity, and mutual respect. The educator discourages the practice of his profession by unqualified persons.

In fulfilling his obligation to professional employment practices, the educator—

1. Shall apply for, accept, offer, or assign a position or responsibility on the basis of professional preparation and legal qualifications.

Opinion 44. Insofar as the responsibility for the content of employment application forms is that of educators, it is unprofessional to include

OPINIONS OF THE NEA ETHICS COMMITTEE

on such forms questions concerning the race and/or religion of applicants.

2. Shall apply for a specific position only when it is known to be vacant, and shall refrain from underbidding or commenting adversely about other candidates.

Opinion 1. Although it is permissible to circulate mimeographed inquiries about vacancies, it is improper to file a formal application based on the indiscriminate circulation of a mimeographed application prepared for general distribution.

3. Shall not knowingly withhold information regarding a position from an applicant or misrepresent an assignment or conditions of employment.

Opinion 12. An educator may properly resign from his position after an administrator has imposed material modifications in a contract. All the details of an educator's duties cannot be incorporated in a contract, and reasonable adjustments in teaching assignments are often necessary and desirable.

4. Shall give prompt notice to the employing agency of any change in availability of service, and the employing agent shall give prompt notice of change in availability or nature of a position.

Opinion 12. An educator may properly resign from his position after an administrator has imposed material modifications in a contract. All the details of an educator's duties cannot be incorporated in a contract, and reasonable adjustments in teaching assignments are often necessary and desirable.

Opinion 15. If an educator has entered into a contract with one school district, it is improper for him to initiate or continue negotiations for a contract with another school district without the consent of the district to which he is obligated. By the same token, it is improper for a chief school officer knowingly to negotiate with an educator already under contract without the approval of the school district to which the teacher is obligated.

Opinion 16. It is improper for a chief school officer to recommend a transfer because of complaints of parents without notice to and prior consultation with the educator and an opportunity for the educator to state his side of the case.

Opinion 43. It is improper for an administrator to make a firm offer to an educator on a continuing contract of a position that requires service to begin within less than thirty days without first securing the assent of the administration of the district holding the educator's current contract.

5. Shall not accept a position when so requested by the appropriate professional organization.

Opinion 4. It is improper to accept a position made vacant by the application of unjust personnel practices and procedures.

CODE OF ETHICS, PRINCIPLE IV

6. Shall adhere to the terms of a contract or appointment, unless these terms have been legally terminated, falsely represented, or substantially altered by unilateral action of the employing agency.

Opinion 12. An educator may properly resign from his position after an administrator has imposed material modifications in a contract. All the details of an educator's duties cannot be incorporated in a contract, and reasonable adjustments in teaching assignments are often necessary and desirable.

Opinion 15. If an educator has entered into a contract with one school district, it is improper for him to initiate or continue negotiations for a contract with another school district without the consent of the district to which he is obligated. By the same token, it is improper for a chief school officer knowingly to negotiate with an educator already under contract without the approval of the school district to which the teacher is obligated.

Opinion 17. If an educator has conducted oral negotiations with a school district but has made no final commitment, he may properly conduct negotiations and accept a contract with another school district.

Opinion 34. It is improper for an educator to resign to accept a new position after his contract has been automatically renewed and the governing board has refused to release him.

Opinion 43. It is improper for an administrator to make a firm offer to an educator on a continuing contract of a position that requires service to begin within less than thirty days without first securing the assent of the administration of the district holding the educator's current contract.

7. Shall conduct professional business through channels, when available, that have been jointly approved by the professional organization and the employing agency.

Opinion 7. It is improper for educators to consult members of the governing board regarding the dismissal of a professional associate without first presenting their views to the appropriate administrative authorities.

Opinion 10. An administrator should consult with an educator about parents' complaints before taking administrative action. While it may be advisable for an administrator to discuss parents' complaints, he is not required to do so where no administrative action is contemplated.

Opinion 14. A local association may properly express its views to the press on the action by a governing board against a professional colleague following rejection of its appeals by appropriate school authorities.

Opinion 22. A local association may properly report its loss of confidence in the integrity of a colleague to the school authorities provided professionally accepted procedures are followed and the report is made through proper channels.

OPINIONS OF THE NEA ETHICS COMMITTEE

Opinion 35. In an association meeting, an educator may properly raise a question of policy affecting all educators alike with the official responsible for that policy.

Opinion 38. It is improper for a minority group of a local association to submit a salary proposal directly to a board of education without advance consultation with the superintendent and notice of its intentions at the meeting when the majority proposal is adopted.

8. Shall not delegate assigned tasks to unqualified personnel.

9. Shall permit no commercial exploitation of his professional position.

Opinion 3. Solicitation and sale of commercial products to professional associates is looked upon with disfavor by the profession under certain circumstances. Solicitation is to be distinguished from sale.

Opinion 5. The operation of a private teacher-placement agency in competition with a placement office operated by the university which employs him is inconsistent with a faculty member's obligations to the university and to his students.

Opinion 18. While the right to augment teaching income is recognized under the Code, an educator who solicits parents of students in his class to purchase musical instruments is acting improperly.

Opinion 19. There is no provision of the Code which governs the selection and use by an educator of instructional materials. Good practice permits comparison of branded products but no recommendation by an educator of a particular brand.

Opinion 29. There is no provision of the Code which governs the selection and use by an educator of instructional materials. Good practice requires that commercially sponsored materials be selected on a basis of their instructional value and that students be protected from exploitation by any special interest group.

10. Shall use time granted for the purpose for which it is intended.

Opinion 41. Sick leave is to be used for the purpose for which it was granted. It is unethical to misuse sick leave time.

OPINIONS

Opinions 1 through 3 were based on the 1929 Code, and the text is left unchanged. Opinions 4 through 41 were based on the 1952 NEA Code. Opinions 42 through 53 were based on the 1963 Code. All have been keyed to the properly corresponding provisions of the Code of Ethics of the Education Profession as adopted by the 1968 Representative Assembly.

Although footnotes have been added to opinions, the basic text of all of them, including quotations from previous codes, is unchanged. The purpose of the footnotes is not to change the intent, but to add further clarification to the scope of the topic discussed.

Each opinion reflects the accepted standards of the profession at the time the opinion is drafted. As time passes, the standards change. The footnotes reflect such modifications. It is perfectly conceivable that a later opinion may contradict an earlier one. If any seeming dichotomy is apparent, greatest weight should be given to the most recent opinion.

OPINIONS OF THE NEA ETHICS COMMITTEE

OPINION 1

(January 1952)

EMPLOYMENT, APPLICATION FOR—*Although it is permissible to circulate mimeographed inquiries about vacancies, it is improper to file a formal application based on the indiscriminate circulation of a mimeographed application prepared for general distribution.*

Article III, Section 1 (1929 Code)

See Principle IV, Section 2 (1968 Code)

A member of the Association requests an opinion as to whether it was ethical for a superintendent of schools to seek a position by distributing a mimeographed form application to school boards in a state where he wished to locate. A summary of the facts as presented in the request follows:

A superintendent residing in State A wished to secure a superintendency in State B. He sent through the mails a mimeographed letter addressed to various local school boards in State B. Each letter was directed to "The President, Board of Education" with the name of the given community filled in. The letter enumerated reasons both economic and personal which led the superintendent to seek a position in State B, the chief reason being to live near a relative. It pointed out, however, that he was not seeking to displace anyone. The letter concluded by stating that if the board of education were seeking a superintendent, "I am interested in the position." A biographical sketch appeared on the reverse side of the letter.

The codes of ethics of all established professions recognize that the procedures and methods by which members seek to further their professional or economic position must be governed by certain standards of conduct and good taste. These standards are designed not only for the protection of members, but in order that better service may be rendered to the public.

The adherence to high standards as to methods and procedures used in securing employment is particularly important in the field of public education. Unlike those professions whose members practice

OPINION 1

largely as individuals and under private auspices, public school administrators and classroom teachers practice their profession in an institutional setting and as public servants. Thus their conduct in seeking employment is subject to scrutiny, not only by lay boards of education, but by the public generally.

Clearly members of the teaching profession are free to seek opportunities to relocate for personal or professional reasons. However, in endeavoring to do so, the use of methods which tend to lower the dignity of the teaching profession constitutes an injury to its members and adversely affects the good repute and the quality of public education generally.

It has been recognized that the widespread circulation of form applications for positions by public school administrators or classroom teachers is a harmful practice. [See the NEA *Research Bulletin* for January 1931, "Ethics in the Teaching Profession."] A number of state codes of ethics specifically condemn this method of securing employment.

Just as "ambulance chasing" and "display advertising" can adversely affect the legal and medical professions, respectively, so the indiscriminate and widespread distribution of mimeographed applications by administrators or classroom teachers can lower the respect for the teaching profession in the public mind. Moreover, such blanket applications tend to blur the efforts of school boards to get the right person for the job.

Article III, Section 1, of the Association's 1929 Code of Ethics provides in part as follows:

Each member of the teaching profession should dignify his calling on all occasions and should uphold the importance of his services to society.

It is the opinion of the Committee that the superintendent in this case acted contrary to the spirit, if not the letter, of Article III, Section 1. The form and content of the application and the method used in its distribution were not in accord with accepted practice or good taste. The implication that the applicant would accept any vacant superintendency which would fulfill his personal requirements without professional regard for terms and conditions of employment could well damage the reputation of the profession in the minds of the school boards to whom the application was directed.

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OPINION 2

(March 1952)

INVESTIGATIONS, COOPERATION WITH—*An educator's refusal to cooperate in an investigation being conducted by a professional association is not contrary to the Code,* but in the absence of a satisfactory explanation it is a disservice to the profession.*

TEACHER, SCOPE OF TERM—*The term teacher as used in Opinions 1 through 41 includes school administrators.*

Article III, Section 12 (1929 Code)

See Principle III, Section 5 (1968 Code)

Opinions 10, 36, 38

A state education association affiliated with the NEA requests an opinion as to whether the conduct of a member of the national association was unethical because of his refusal to cooperate in a duly authorized investigation conducted jointly by both associations. A summary of the facts follows:

Numerous teachers and supervisors in a certain county of the state alleged that a *town* superintendent of schools was responsible for having published anonymously in local newspapers a political advertisement which constituted an unwarranted and unfair attack on the *county* board of education, and, by inference, on the *county* superintendent. It was further alleged that the *town* superintendent was responsible for the distribution of handbills of similar import. These attacks took place shortly before an election of the county board. Following this election, the complexion of the board changed and the county superintendent's contract was not renewed. In a subsequent investigation the state association concluded that the county superintendent was professionally competent, the new county board of education offered no adequate reasons for removing him, and the newspaper advertisements and distribution of handbills played a material part in the outcome of the board election and the removal of the county superintendent. During the course of the investigation by the state education association and subsequently during an interview

* See 1968 Code, III-5.

with a representative of the National Education Association, the town superintendent was asked whether he had directly or indirectly been a party to the publication of the newspaper advertisements or the distribution of handbills and, if not, whether he knew of the source or sources of these attacks. The town superintendent refused to discuss the matter and further declined to give any material explanation for his failure to cooperate. It was not possible to prove that he was responsible for the attacks.

There appears to be no provision in the 1929 Code of Ethics covering the refusal of a member to cooperate in an investigation duly authorized by the Association.* However, it is the Committee's judgment that on the facts as presented in this case the town superintendent was under a professional obligation to cooperate or offer a satisfactory explanation for his refusal to do so.

Investigations by or on behalf of the NEA are frequently conducted on matters relating to the administration and welfare of public school systems. It is essential in such investigations that representatives of the NEA receive the cooperation of members of the profession in order that the facts in a given situation may be gathered and valid conclusions drawn therefrom. The refusal of members of the profession to give testimony in such investigations without satisfactory explanation constitutes a disservice to public education and the profession.

However, a satisfactory explanation in and of itself constitutes cooperation. Obviously, the question as to what is an adequate explanation is a matter to be determined in each individual case. Grounds for a valid explanation might include confidentiality of communications or jeopardy of either personal, professional, or parent-student relationships.

In order to cover situations such as the one presented herein, it is the opinion of the Committee that the Code of Ethics should be amended so as to provide that, except where an adequate explanation is made, the refusal to cooperate in a duly authorized investigation by the Association shall constitute unethical conduct.

While the issue was not squarely raised in this case, the Committee wishes to call attention to the obligation of a member of the profession with regard to unfavorable criticism directed at other members of the profession. Article III, Section 12, of the Association's 1929 Code of Ethics provides in part:

* See 1929 Code, III-5.

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A teacher should avoid unfavorable criticism of other teachers except that formally presented to a school official for the welfare of the school.

The term *teacher* is construed by the Committee as applicable to superintendents and supervisors. Obviously, unwarranted or unfair attacks directly or indirectly perpetrated against professional associates or members of the profession are clearly contrary to Section 12 and, in a proper case, may be grounds for removal from membership in the Association under the provisions of Article IV of the 1929 NEA Code of Ethics.

OPINION 3

(May 1952)

EMPLOYMENT, SELLING TO ASSOCIATES—*Solicitation and sale of commercial products to professional associates is looked upon with disfavor by the profession under certain circumstances. Solicitation is to be distinguished from sale.*

Article III, Section 1 (1929 Code)

See Principle IV, Section 9 (1968 Code)

A superintendent of schools has requested an opinion as to whether a teacher who solicits and sells a commercial product for personal profit to other teachers in the school system during the school year is acting contrary to Article III, Section 1, of the 1929 NEA Code of Ethics, which provides that:

Each member of the teaching profession should dignify his calling on all occasions and should uphold the importance of his services to society. On the other hand, he should not indulge in personal exploitation.

The Ethics Committee believes it would be generally agreed that in many communities throughout the country salaries paid to public school professional personnel are insufficient for the maintenance of an adequate standard of living. Some public school administrators and classroom teachers have found it necessary to engage in supplementary nonteaching work during the school year in order to remain

OPINION 3

in the profession. There would probably not be complete agreement as to what activities of this character, if any, are appropriate or ethical. Because of the many and varied situations which confront individual teachers, ways and means of augmenting income cannot be specifically classified as acceptable or unacceptable at this time. It is fundamental, of course, that no activity should be undertaken which renders one ineffective as a teacher. In a few instances, questions of propriety and good taste have been raised either as to the nature of an activity or the manner in which it has been conducted. In any event, a teacher who finds it necessary to supplement his teaching salary has a professional obligation to select only such means as will not adversely affect the standing of the profession in the public mind.

On the over-all question presented by the superintendent of schools, it is the opinion of the Committee that the solicitation and sale of commercial products to professional associates is not, in and of itself, contrary to Article III, Section 1, of the 1929 Code, quoted above.

An endeavor has been made to secure a sampling of professional opinion on certain aspects of this question. The Committee believes that the profession as a whole looks with disfavor on solicitation or sale during school hours and on school property;¹ also, that it is improper to solicit and sell to those toward whom one stands in a supervisory relationship.²

However, there are differences of opinion as to the propriety of soliciting or selling to professional associates after school hours and off school property. One view is that after school hours a teacher's time is his own, and he may engage in any activity not detrimental to his professional responsibilities. Another view is that any solicitation or sale may open the door to direct or indirect pressure on professional associates and in some instances carry an implied threat.

A further consideration relates to solicitation as distinguished from sale. Thus, it might be proper to sell to one's associates if the prospective purchaser took the initiative, whereas it might be improper if the initiative were taken by the seller.

Clarification as to what methods and means may properly be employed to augment an inadequate teaching income will doubtless develop as the detailed facts and circumstances of specific cases are presented to the Committee for opinion.

¹ See 1968 Code, II-4.

² See 1968 Code, III-3.

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OPINION 4¹

(February 1953)

EMPLOYMENT, ACCEPTANCE OF—*It is improper to accept a position made vacant by the application of unjust personnel practices and procedures.*

APPLICATION OF CODE TO BOARDS OF EDUCATION—*The Code has no application to members of boards of education.*

Principle IV, Section 5 (1952 Code)

See Principle IV, Section 5 (1968 Code)

See Note below

Requests have come to the Committee on Professional Ethics for opinions on two similar cases arising in different parts of the country. Each case involves the conduct of a superintendent of schools in accepting a position in a community where a controversy existed with regard to the retention of the incumbent superintendent. As the material facts in the two cases are identical, a joint opinion is issued herewith which is applicable to both requests. The circumstances were as follows:

Several weeks before a school board election, a board of education, without prior statement of charges, voted not to renew the contract of the incumbent superintendent of schools, which was to expire at the end of the school year. There was no law requiring action on the contract prior to the board election. The superintendent, hereafter referred to as Superintendent A, had served the school system for a number of years. In announcing its decision, the board made general statements to the effect that his services were unsatisfactory. Several of the board members who voted not to renew the contract were candidates in the pending board election, including the president of the board. Admittedly, the action of the board was taken to preclude continuance of Superintendent A in the event that the board majority failed to

¹ In reviewing the body of opinions for this edition, the Committee deems it advisable to add a further note. When a question arises as to whether unjust personnel practices or procedures have been employed, the applicant should inquire of his appropriate state professional association agency as to the propriety of giving the position further consideration. False or conflicting charges that may be circulated make it appropriate for the state professional association to act as the arbiter when questions of this sort arise.

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be re-elected. An opposition slate was running against these candidates on the issue of the renewal of Superintendent A's contract. Protests by a majority of the faculty and by groups of citizens against the board's action had widespread publicity. The controversy was a matter of common knowledge in educational circles throughout the state. Shortly before the board election, a superintendent in another part of the state, hereafter referred to as Superintendent B, with full knowledge of the facts and circumstances surrounding the controversy, accepted a contract to take effect at the end of the school year.

It is the opinion of the Committee on Professional Ethics that Superintendent B, in accepting the position under the facts as presented, acted contrary to Section 5 of Principle IV of the 1952 Code of Ethics, which requires that a teacher will:

Refuse to accept a position when the vacancy has been created through unprofessional activity or pending controversy over professional policy or the application of unjust personnel practices and procedures.

It is clear that at the time Superintendent B accepted the board's offer, a serious community controversy over professional policy existed regarding the board's action in not renewing Superintendent A's contract. It is also clear that the board had violated accepted personnel practices and procedures in that no charges had been made against Superintendent A prior to its action, nor was he given an opportunity to reply to criticism of his administration.

An essential criterion of a mature profession is that its members generally enjoy mutual confidence and by their own professional disciplines support each other against unfair and unprofessional practices even at the expense of their own personal advantage. In accepting the position, Superintendent B furthered the board's plan to control the selection of a successor to Superintendent A. He actively undermined a professional colleague by accepting the position before the electorate had had an opportunity to voice its opinion with respect to continuing the incumbent in office.

Except in rare circumstances, a superintendent should not accept a position where there is a likelihood that at the outset of his contract period he will have to face a hostile board together with strong faculty and community opposition. Cleavages developed under such circum-

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stances will almost invariably accentuate community controversy, disrupt faculty morale, and thereby harm the children of the school system.

The Code of Ethics has no application to members of boards of education; however, the committee deems it appropriate to observe that the action of the board in this case constituted an attempt to prevent the electorate of the school district from effectively voicing its will with respect to the administrative leadership of the school system. Such an attempt violates the spirit of state legislation governing school board elections.

OPINION 5

(March 1953)

EMPLOYMENT, OPERATION OF PLACEMENT AGENCY—*The operation of a private teacher-placement agency in competition with a placement office operated by the university which employs him is inconsistent with a faculty member's obligations to the university and to his students.*

Principle IV, Section 10 (1952 Code)

See Principle IV, Section 9 (1968 Code)

See Principle I, Section 6 (1968 Code)

Opinions 9, 18, 40

A member of the Association who is also a member of the Association for Higher Education (an NEA department) requests an opinion as to whether a faculty member of a school of education acts contrary to the NEA Code of Ethics in the light of the following facts:

The faculty member operates a private teachers agency for profit in close proximity to the university campus where he is employed. The university has had an office of teacher placement for many years which is open to graduates of the university without charge. The faculty member does not register graduates of the university which employs him, but he does visit schools which are served by the university and solicits business for his private teachers agency. Persons registered in his agency are, in certain cases, competitors of graduates of the university enrolled in the university office of teacher placement.

OPINION 6

It is the opinion of the Committee that the conduct of the faculty member is contrary to the provisions of Section 10 of Principle IV of the 1952 Code of Ethics, which requires that a teacher will:

Engage in no gainful employment, outside of his contract, where the employment affects adversely his professional status or impairs his standing with students, associates, and the community.

A faculty member in a school of education is under an obligation to further the interests of the institution which employs him and to give disinterested advice and assistance to qualified candidates from his university seeking teacher employment. In carrying out these obligations, there should never be the slightest suspicion that he is in any way motivated by personal or financial considerations.

The operation of the private teachers agency, under the facts as presented, is inconsistent with the faculty member's obligations to the university and to his students. Even though his intentions may be of the best, it seems inevitable that such a commercial enterprise tends to impair his standing with at least some of his students and associates. It opens the door to the charge not only that he is exploiting his university connection for personal profit, but also that he will discriminate against university students whom he should be assisting. In furthering the interests of his agency's candidates in competition with graduates of his own university, he is failing in his obligations to the university and to its students seeking employment.

OPINION 6

(May 1953)

EMPLOYMENT, TUTORING, GENERAL—*Tutoring for compensation, including one's own students, is proper if in accordance with approved policies. Suggested policies considered.**

POLICY FORMULATION, ROLE OF LOCAL ASSOCIATION—*In absence of board policies on tutoring, local associations should take initiative in their formulation.*

Principle I, Section 6 (1952 Code)

* A test is provided in the 1968 Code rather than leave the decision on propriety to lay body.

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See Principle I, Section 8 (1968 Code)
Opinion 27

The Committee on Professional Ethics has received a number of requests for opinions as to what ethical standards govern the practice of a public school teacher tutoring students in his school system for compensation.

The Code of Ethics adopted by the Representative Assembly in 1952 contains only one reference to tutoring. Principle I, Section 6, provides that a teacher will:

Accept no remuneration for tutoring except in accordance with approved policies of the governing board.

This replaces a section in the former code which provided that a teacher should refrain from tutoring his own pupils or from referring his pupils to any members of his immediate family.

During the process of drafting the present Code the impossibility of formulating comprehensive and detailed provisions in relation to tutoring became apparent. It was recognized that in some cases tutoring is essential to a student's educational progress and is a means of meeting his individual needs. Under certain circumstances a student's own teacher may be the best or even the only person available. On the other hand, it was recognized that tutoring can lead to abuses and can cause friction among teachers and misunderstanding on the part of the public. A given tutoring arrangement might be acceptable in one community or school system and not in another.

The extent of the practice varies throughout the country. In some communities having a large transient population during the school year, tutoring by public school teachers is quite common. In other communities the practice rarely occurs. The variations that arise are manifold in terms of time, place, and circumstance.

Tutoring for compensation is to be differentiated from other types of outside employment due to the nature of the student-teacher relationship. Any tutoring arrangement becomes a part of the educational process. The school system as a whole as well as the teacher has a responsibility for ensuring that tutoring will be conducted in the best interests of all concerned.

It is the opinion of the Committee that tutoring should be governed by policies formulated by local boards in consultation with administrators and classroom teachers.

OPINION 7

Many school systems do not have an official policy on tutoring. In such communities, where the matter presents a problem, local associations should take the initiative in cooperation with the administration in developing policies. Local associations should also endeavor to secure revision of existing policies which they feel are inadequate or arbitrary.

Without attempting to prejudge specific cases, the Committee offers several suggestions which it believes should be included in policies on tutoring:

1. Any tutoring arrangement between a teacher and a student should be approved by an appropriate school authority.
2. A teacher, before entering into a tutoring arrangement with a student in another class, should consult with the student's teacher.
3. A teacher should not engage in tutoring where it will interfere with his effectiveness as a teacher.
4. Any tutoring arrangement should conform with Principle IV, Section 10, of the Code, which provides that a teacher will engage in no employment which affects adversely his professional status or impairs his standing with students, associates, and the community.

OPINION 7

(October 1953)

PROPER CHANNELS, DISMISSALS—*It is improper for educators to consult members of the governing board regarding the dismissal of a professional associate without first presenting their views to the appropriate administrative authorities.*

TEACHER WELFARE, ROLE OF LOCAL ASSOCIATION—*In matters affecting teacher welfare, it is desirable for educators to present their views first to their local association.*

Principle IV, Section I (1952 Code)

See Principle IV, Section 7 (1968 Code)

Opinions 10, 14, 16, 35, 38

A classroom teacher requests an opinion as to whether it is ethical for teachers to consult members of a board of education regarding

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the re-employment of an associate without notifying the superintendent. The facts are as follows:

Members of a school faculty became concerned over rumors that a competent principal with many years of service would not be recommended by the superintendent for re-employment. Subsequently a local newspaper announced that the principal had resigned, implying that the resignation was forced. Without discussing the matter with either the superintendent or their local association, several teachers consulted a member of the school board. They told him their purpose was to express concern over the alleged resignation, to state their opinion that the principal was able and well liked, and to seek information as to his status. The superintendent charged that the teachers were unethical in going to the board member.

It is the opinion of the Committee that the teachers who consulted the school board member acted contrary to Principle IV, Section 1, of the 1952 Code, which provides that a teacher will:

Conduct professional business through the proper channels.

The consultation with the board member in connection with the alleged resignation constituted "professional business" within the meaning of the Code. Teachers have a legitimate professional interest in personnel practices as applied to their associates. However, the teachers in this case did not proceed through proper channels. They should have first discussed the question of the principal's re-employment with the superintendent. If they felt the issue had not been satisfactorily resolved by the superintendent, they could properly have asked the board of education, rather than an individual board member, to meet with them after notifying the superintendent of their intention.

The Ethics Committee recognizes that the requirement of the Code as herein construed presents problems where teachers do not feel free to consult administrative officials for fear of reprisal. However, consultation in the first instance with a school board is no solution. Circumvention of school officials is administratively unsound and invariably results in mutual suspicions and resentments which tend to undermine the proper functioning of a school system. Where an administrative official resorts to threats or reprisals against teachers

OPINION 8

who seek to appeal through proper channels to the board, his conduct is subject to review under the Code.

The Committee wishes to make an observation, which raises no question of ethical practice, with regard to the role of a local association in relation to questions affecting the general welfare of the teaching staff. Where practicable, it is good procedure for teachers to present such questions to their local association for study and action and for the issues to be presented formally to the school authorities by the association. If the association fails to act favorably, teachers retain the right to state their views through proper channels within the school system. The effectiveness of a local association in dealing with administrative officials or a board is in direct ratio to its strength and alertness, the quality of its leadership, and the extent to which it has been able to develop cooperative relationships with the school authorities.

OPINION 8

(December 1953)

UNVERIFIED CHARGES, REPORTING OF—*Unverified charges made by a parent against a professional educator may properly be reported to school authorities in the interest of preserving the integrity of the educational program and the profession.*

Principle V, Section 3 (1952 Code)

See Principle III, Section 4 (1968 Code)

Opinions 11, 22, 23, 25

A local association requests an opinion as to whether it is ethical for a teacher to report to his appropriate administrator unwarranted charges against an associate which were repeated to him in confidence by a parent. The facts are:

A secondary school teacher was told by Parent A, who had a child in his class, that Parent B was charging a kindergarten teacher with practicing discrimination against children of a certain religious faith. Parent A stated that she was speaking in confidence and did not wish to have her comments reported. The secondary school teacher subsequently learned that Parent B's child, in

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accordance with school regulations, had been denied admission to the kindergarten teacher's class because he was under age. Parent B then began making charges in the community that the kindergarten teacher dealt unjustly with, and practiced discrimination against, children of Parent B's religious faith. The secondary school teacher asks whether he may properly advise his appropriate administrator of the unwarranted charges without violating the confidentiality of his relationship with Parent A.

Misrepresentation, gossip, and rumor directed at a teacher if left unchecked can sometimes seriously impair his usefulness and adversely affect a whole school system. However, the situations which arise are so varied in terms of their character and the personal relationships involved that a teacher learning of such charges must exercise his own good judgment as to what steps, if any, he should take in the interests of the school system.

It is the opinion of the Committee that, apart from the question of confidentiality, a teacher may ethically report unwarranted charges against an associate to his appropriate administrator. Principle V, Section 3, of the 1952 Code provides that a teacher will:

Speak constructively of other teachers, but report honestly to responsible persons in matters involving the welfare of students, the school system, and the profession.

While this provision appears to be directed primarily toward reporting justifiable and honest criticism of teachers, the converse is implicit under the provision. If valid charges against an associate may properly be reported under the Code, a teacher most certainly may report invalid charges.

The limits within which the relationship between parent and teacher is confidential have not in all respects been clearly defined by the profession. It is the opinion of the Committee, however, that if the secondary school teacher in this case felt the interests of the school system would be served by reporting the charges to his appropriate administrator, he could properly have done so after advising Parent A of his intention.

Assurance that the source of the information would be kept anonymous would be the extent of his obligation to Parent A even if the parent objected. The paramount consideration must be the interest of the children, the teachers, and the school system.

OPINION 9

(January 1954)

EMPLOYMENT, SELLING ENCYCLOPEDIAS—*While the right to augment teaching income by outside employment is recognized under the Code, solicitation by an educator of parents of students under his immediate jurisdiction is improper.*

Principle IV, Section 10 (1952 Code)
See Principle I, Section 6 (1968 Code)
Opinions 5, 18, 40

The executive committee of a local association requests an opinion on the following statement of facts:

A number of parents, after discussion at a PTA meeting, complained to a local association regarding the activities of two teachers who were seeking to sell encyclopedias for profit to the parents of children in their classes. Several of these parents reported that they had admitted one teacher to their homes as a friend only to find she had come to sell books. The parents were concerned over whether their failure to buy encyclopedias might adversely affect the grades of their children. The request asks whether or not such solicitation by teachers constitutes a violation of the Code.

The Ethics Committee has pointed out in previous opinions that many teachers, in order to remain in the profession, have found it necessary to supplement their teaching salaries by outside employment. The right to augment teaching income is specifically recognized in the Code. Outside employment is permissible if it does not fall within the provisions of Principle IV, Sections 9 or 10, of the 1952 Code. These sections require that a teacher will:

Section 9. Accept no compensation from producers of instructional supplies when one's recommendations affect the local purchase or use of teaching aids.

Section 10. Engage in no gainful employment, outside of his contract, where the employment affects adversely his professional status or impairs his standing with students, associates, and the community.

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Section 9 is directed to compensation received for supplies purchased by a local school system and has no application in the present case.

It is the opinion of the Committee that the teachers who solicited parents of their students to purchase encyclopedias acted contrary to the provisions of Section 10.

There is agreement among parents and teachers generally that encyclopedias can be useful educational materials. Obviously no professionally minded teacher would be influenced in grading a child by the attitude of his parents toward purchasing an encyclopedia. Moreover, there is no doubt that some teachers can solicit parents of their pupils in such a way as to give no offense and raise no question of propriety. However, in the case presented such factors are not the test of ethical practice under Section 10. The test is whether the special nature of the student-teacher relationship tends to affect adversely the response of parents to the solicitation and, in turn, the teacher's standing in the community.

In this case there is a factor of implied pressure not unlike that which arises when a teacher is asked to purchase a product by his supervisor. In Opinion 3 the Committee looked with disfavor on such solicitation.

Unquestionably many parents do not feel free to decide whether they will purchase an encyclopedia on its merits if approached by their child's teacher. Such solicitation is frequently resented. Any solicitation of parents which is looked on with disfavor by them will inevitably affect the teacher's status in the community and can reflect adversely on the profession.

OPINION 10

(April 1954)

PROPER CHANNELS, COMPLAINTS AGAINST EDUCATOR—

An administrator should consult with an educator about parents' complaints before taking administrative action. While it may be advisable for an administrator to discuss parents' complaints, he is not required to do so where no administrative action is contemplated.

TEACHER, SCOPE OF TERM—*The term teacher as used in Opinions 1 through 41 includes school administrators.*

Principle IV, Section 1 (1952 Code)

See Principle III, Section 6 (1968 Code)

See Principle IV, Section 7 (1968 Code)

Opinions 2, 7, 14, 16, 35, 36, 38

A classroom teacher requests an opinion as to whether a high school principal acted contrary to the Code of Ethics in the light of the following facts:

Three parents conferred with a principal and made certain charges regarding disciplinary methods used by a teacher in his school against whom there had been no previous complaints. Without prior consultation with the teacher, the principal handed him a sealed letter, which set forth the charges of the parents. The letter directed that the teacher reply to the charges in writing and appear at the meeting which the principal had arranged with the complaining parents, the superintendent of schools, and a representative of the school board; at this meeting the charges would be discussed. There was no regulation in the school system setting forth procedures to be followed in the event of complaints by parents, and there was no intermediary supervisor between the principal and the teacher.

It is the opinion of the Committee that the school principal acted contrary to the provisions of Principle IV, Section 1, of the 1952 Code, which requires that a teacher will:

Conduct professional business through proper channels.

The provisions of the Code apply alike to administrators and classroom teachers. When the parents' complaints were presented to the principal, they became a part of his professional business within the meaning of the Section, and he was obligated to deal with them through proper channels.

In many cases it may not be desirable to consult with a teacher regarding complaints by parents. The administrator must exercise his discretion where no action against the teacher is contemplated. However, as action was taken in the present case, the proper channel was first of all the teacher. Thus, the principal, upon receiving the complaints, should have given the teacher an opportunity to discuss them

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with him before a determination was made to confront the teacher with charges at a meeting with the parents and school officials. The steps the principal took in this instance reflect an evasion of his responsibility and a desire to have somebody else do the unpleasant job of dealing with the teacher directly. As the head of a school, a principal's responsibility is to consult with a teacher about charges which he regards as substantial.

In Opinion 7, the Committee held that a teacher who sought to resolve a school controversy by circumventing the superintendent acted contrary to the provisions of Section 1 of Principle IV. It was pointed out in Opinion 7 that such action is administratively unsound and invariably results in mutual suspicions and resentments which tend to undermine the proper functioning of a school system. The grounds for that holding apply with equal force to the school principal in the present case. The superintendent was also culpable to the extent to which he participated in the action.

OPINION 11

(October 1954)

REFERENCES, UNRESOLVED DIFFICULTIES—*It is improper for an administrator to withhold in a reference information about unresolved, current difficulties which affect an educator's competence.*

DISCRETION, EXERCISE OF—*There is necessarily a wide margin for individual judgment in the formulation of references.*

Principle IV, Section 8 (1952 Code)

Principle V, Section 3 (1952 Code)

See Principle III, Section 8 (1968 Code)

Opinions 8, 22, 23, 25, 36

A school administrator requests an opinion on the following facts:

The board of education in School District A relieved a teacher of his classroom duties because of behavior over a period of years that was diagnosed as mental illness. After a period of treatment, he sought reinstatement to his former position. The school authorities refused to re-employ him because of doubts as to his

OPINION 11

stability. Within two months, the teacher applied for a position in School District B in another state, and the superintendent there requested a confidential reference from District A. In reply, the superintendent of District A recommended the teacher, omitting any mention of his classroom difficulties or doubts as to his stability. The teacher was employed by District B. During the ensuing school year the symptoms of mental illness recurred, precipitating incidents which reflected adversely in the community on the superintendent and the school system. It became necessary to discharge the teacher. The superintendent in District B asks whether the superintendent in District A violated the Code of Ethics in failing to reveal in his recommendation pertinent factual data regarding the teacher's employment record.

It is the opinion of the Committee that the superintendent in School District A acted contrary to the provisions of Section 8 of Principle IV and Section 3 of Principle V of the 1952 Code, which provide that the teacher will:

Section 8. Be fair in all recommendations that are given concerning the work of other teachers.

Section 3. Speak constructively of other teachers, but report honestly to responsible persons in matters involving the welfare of students, the school system, and the profession.

The superintendent in District A was under an obligation to advise District B of the difficulties the teacher had had and to give factual data with regard thereto. His failure to do so was professionally irresponsible and made his recommendation neither fair nor honest under the above sections of the Code. It constituted a disservice to a professional colleague, in all likelihood to the teacher himself, and above all, to the children in the school system.

There is necessarily a wide margin for individual professional judgment in the formulation of references. The extent to which reference material covers a teacher's past difficulties is a matter of judgment as to whether such difficulties affect his present, or future, competence.

It is fundamental, however, that references should be based on currently relevant factual data regarding a teacher's employment record. To suppress part of that data, whether the motive is to get rid of an unwanted teacher, to aid an incompetent teacher to obtain employment, or to retain a qualified teacher who is seeking another position, constitutes unprofessional conduct.

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By the same token, it would be inappropriate for a reference to include past history of a teacher's difficulties in any area of emotional adjustment or professional practice which has been resolved and has no present bearing on his competence.

References often present difficult and delicate questions, the ethical implications of which will doubtless become more definitive as specific cases are presented to the Ethics Committee for opinion.

OPINION 12

(December 1954)

CONTRACTS, MODIFICATIONS IN—*An educator may properly resign from his position after an administrator has imposed material modifications in a contract. All the details of an educator's duties cannot be incorporated in a contract, and reasonable adjustments in teaching assignments are often necessary and desirable.*

Principle IV, Sections 6, 7 (1952 Code)

See Principle IV, Sections 3, 4, 6 (1968 Code)

Opinions 15, 17, 34, 43

A classroom teacher requests an opinion on the following facts:

A teacher's contract was renewed in May. It provided for specific teaching responsibilities at a given salary. In accepting the contract, the teacher, who was president of a state association, was assured by the superintendent that a fixed number of days of leave would be allowed him during the school year for carrying on professional organization work within the state. He was also assured that if it proved necessary to increase the teaching load, additional salary would be granted. In August the superintendent advised the teacher that his teaching load would be materially increased at no change in salary and that the amount of leave for professional work would be reduced. The teacher requests advice as to whether under the circumstances he could ethically resign from his position.

Obviously all the details of a teacher's duties cannot be incorporated in a contract, and there is always the danger that supplementary oral

OPINION 13

agreements will result in mutual misunderstandings. It is recognized by members of the profession that reasonable adjustments in teaching assignments are necessary and desirable for the proper functioning of a school system. However, such questions are not raised on the facts presented.

The pertinent provisions of the 1952 Code in this case are Sections 6 and 7 of Principle IV, which provide that a teacher will:

Section 6. Adhere to the conditions of a contract until service thereunder has been performed, the contract has been terminated by mutual consent, or the contract has otherwise been legally terminated.

Section 7. Give and expect due notice before a change of position is to be made.

It is the opinion of the Committee that the teacher could resign from his position without acting contrary to either of the foregoing sections. The school administration not only sought to breach the May contract of renewal, but also to vary the terms of the oral agreement. Apart from any legal considerations, the teacher was entitled to reject the conditions proposed in August. The onus for any adverse effect that the teacher's resignation might have on the professional level of services rendered by the school system lies solely with the school administration.

Teachers sometimes accept contract modifications which impose serious hardship, either out of a sense of responsibility to the children or because they are unable to make other teaching arrangements on short notice. However, in school systems where teachers' contractual rights are not adhered to, there comes a point where submission to irresponsible administration of terms and conditions of employment serves neither the profession nor the children.

OPINION 13

(October 1954)

DISPARAGING REMARKS ABOUT STUDENTS—*It is improper for an educator to make remarks in public reflecting on a student's abilities and family background. However, an educator has the right and often the duty to confer in confidence with colleagues*

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or authorized agencies regarding a student's problems in conduct and adjustment.

Principle I, Section 2 (1952 Code)

Principle II, Section 3 (1952 Code)

See Principle I, Section 4 (1968 Code)

Opinions 28, 39

A local association requests an opinion on the following facts:

Teacher A discussed one of his students with Teacher B in a school hallway within the hearing of a classmate of the student in question. The teacher commented adversely on the student's mental ability and personal integrity, attributing these deficiencies to the pupil's family background. Teacher B reported the incident to the local association.

It is the opinion of the Committee that the conduct of Teacher A was contrary to Section 2 of Principle I and Section 3 of Principle II of the 1952 Code, which provides that a teacher will:

Section 2. Recognize the differences among students and seek to meet their individual needs.

Section 3. Help to increase the student's confidence in his own home and avoid disparaging remarks which might undermine that confidence.

Under Principles I and II of the Code, respectively, a teacher is entrusted with the obligations of helping children to develop into "happy, useful, self-supporting citizens" and of furthering "cooperative relationships with the home." These obligations cannot be fulfilled in terms of Section 2 and 3 when a teacher makes disparaging remarks reflecting on a child's abilities or family background in such circumstances as are herein presented. It must be presumed that in repetition such criticisms will generate malicious gossip which will get back to the student and to his parents.

The Committee recognizes that on occasion a teacher has not only the right but the duty to confer in confidence with appropriate professional colleagues or authorized agencies regarding a child's problems in conduct and adjustment. However, casual criticisms made indiscriminately, especially in the presence of other students, are clearly improper.

OPINION 14

(October 1954)

PROPER CHANNELS, STATEMENTS TO NEWSPAPERS—*A local association may properly express its views to the press on the action by a governing board against a professional colleague following rejection of its appeals by appropriate school authorities.*

LOCAL ASSOCIATION, APPLICATION OF THE CODE TO—*The official actions of a local association are the collective actions of its membership, and therefore, a local association is bound by the pertinent provisions of the Code.*

Principle IV, Section 1 (1952 Code)

See Principle IV, Section 7 (1968 Code)

Opinions 7, 10, 16, 35, 38

A local association requests an opinion on the following facts:

A teacher with many years of competent service was denied a renewal of contract by the board of education in accordance with the recommendation of the superintendent of schools. No charges or statement of reasons were given. The teacher appealed unsuccessfully to the superintendent and board. In this jurisdiction there was no right of appeal to a higher educational authority or to the courts. Thereafter official representatives of the local association acting on its behalf met with the superintendent and urged that under the circumstances he withdraw his recommendation and endeavor to have the teacher's contract renewed. He refused. After notice to the superintendent the local association appealed to the board of education, which reaffirmed its position. The local association asks whether, under the Code, it may now send a letter to the newspapers protesting the nonrenewal of the teacher's contract.

Before considering the specific issue presented, the Committee wishes to dispose of a jurisdictional question, namely, the application of the Code to associations. The provisions of the Code are directed to individual teachers. However, it is the Committee's opinion that the official actions of a local association are the collective actions of the individual teachers comprising its membership. Therefore, the

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pertinent provisions of the Code apply with equal force to local associations.

Section I of Principle IV provides that a teacher will:

Conduct professional business through the proper channels.

A local association has a legitimate professional interest in personnel policies as applied to staff members of the school system. Under the Code provision cited, it is entirely proper for an association to express its position to the appropriate school authorities in cases where it feels that a board of education or an administrator has taken improper action against a professional associate.

In this case the association proceeded through proper channels in accordance with the section cited in that it initially stated its position to the superintendent of schools and thereafter to the board of education. Having been unsuccessful in its appeals, the association may now properly state its position to the public through a letter to the press. Before it does so, however, the Committee believes that professional courtesy would require that the association first notify the appropriate school authorities of its intention. Further considerations as to proper channels might be involved in cases arising in jurisdictions where teachers have a right to appeal from a local board to a higher authority.

OPINION 15 ¹

(December 1954)

CONTRACTS, SUBSEQUENT NEGOTIATIONS—*If an educator has entered into a contract with one school district, it is improper for him to initiate or continue negotiations for a contract with another school district without the consent of the district to which he is obligated. By the same token, it is improper for a chief school officer knowingly to negotiate with an educator already*

¹ This does not apply in instances where a continuing contract is involved. For clarification of rights and responsibilities in situations involving automatic renewal of contracts by school districts, see Opinion 43.

under contract without the approval of the school district to which the teacher is obligated.

Principle IV, Sections 6, 7 (1952 Code)

See Principle IV, Sections 4, 6 (1968 Code)

See Note below

Opinions 12, 17, 34, 43

A superintendent of schools requests an opinion on the following statement of facts:

A teacher was negotiating for a contract with two school districts, A and B, for the ensuing year. She signed a contract without a cancellation clause with District A, and the superintendent thereupon notified placement bureaus that the vacancy no longer existed. Unknown to the superintendent of District A, the teacher continued negotiations with District B. Shortly before school opened she orally agreed to accept a position with District B at a higher salary. She then asked to be released from her contract with District A. At this point it was doubtful that a replacement could be secured. The superintendent of District A asks whether the conduct of the teacher was contrary to the Code.

It is the opinion of the Committee that on the facts presented the conduct of the teacher was contrary to Principle IV, Sections 6 and 7, of the 1952 Code, which require that a teacher will:

Section 6. Adhere to the conditions of a contract until service thereunder has been performed, the contract has been terminated by mutual consent, or the contract has otherwise been legally terminated.

Section 7. Give and expect due notice before a change of position is to be made.

Obviously, there was no issue as to the binding nature of the contract between the teacher and District A. It was unethical for her to continue negotiations with District B without the knowledge and consent of the superintendent in District A. Because of her conduct, the superintendent was faced with the dilemma of either recommending release of a teacher who probably could not be replaced or refusing to recommend the release, thereby having a teacher on his staff who might be dissatisfied. In either case the level of professional service of District A would be adversely affected. It does not appear in the facts whether

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the superintendent in District B knew that the teacher had signed a contract with District A; if he did, his participation in the negotiations was also unethical.

Not infrequently situations arise where, after signing a contract, a teacher may validly wish to negotiate with another school district or to be released from a contract without expectation of other employment. Most superintendents will endeavor to accommodate a teacher if the interests of the school system are protected.

OPINION 16

(February 1955)

PROPER CHANNELS, NOTICE OF TRANSFERS—*It is improper for a chief school officer to recommend a transfer because of complaints of parents without notice to and prior consultation with the educator and an opportunity for the educator to state his side of the case.*

Principle IV, Sections 1, 7 (1952 Code)

See Principle III, Section 6 (1968 Code)

See Principle IV, Section 4 (1968 Code)

Opinions 7, 10, 14, 35, 38

A local association requests an opinion as to whether the requirement of "due notice" in Section 7 of Principle IV of the 1952 Code applies to teacher transfers within a school district. A summary of the facts follows:

Teacher A, who was highly regarded in the school system, took legitimate disciplinary action against a child of influential parents in the community. Before the close of the school year a group of parents presented a petition to the superintendent asking that the teacher be transferred. On recommendation of the superintendent, the board of education ordered the transfer effective as of the beginning of the next school year. The teacher had no knowledge either of the petition or of the board's action. A few days before the opening of school the teacher received notice from the superintendent that he was transferred to teach the same grade in another school.

In every school system it is sometimes necessary to transfer teachers from one school to another. Transfers are entirely proper if made in the interests of the school system. Some transfers must be made without prior notice when there has been an unexpected shift in student enrollment or when unforeseen teacher vacancies arise. Of course, in terms of good administration, notice and an explanation should be accorded the teacher in advance wherever practicable.

On the specific question raised in the request, Section 7 of Principle IV of the 1952 Codes provides that a teacher will:

Give and expect due notice before a change of position is to be made.

It is the opinion of the Committee that the phrase "change of position" as used in this section is directed solely to cases where the administration intends to discontinue the teacher's employment or the teacher intends to leave the school system. A transfer constitutes a change in assignment, not a change in position and, therefore, does not come within the meaning of Section 7 of Principle IV.* However, the Committee finds that Section 1 of Principle IV is pertinent to the facts presented. This section requires that a teacher will:

Conduct professional business through proper channels.

In Opinion 10 the Committee held that an administrator must be allowed discretion in the matter of reporting parents' complaints to a teacher where no administrative action is contemplated. However, it was also held in that case that as the administrator took action with respect to the complaint, he should first have discussed the matter with the teacher. His conduct was considered comparable to that of a classroom teacher who circumvents the superintendent by appealing directly to the board. By the same token, it is the opinion of the Committee that, in the present case, the superintendent should not have taken the parents' complaint and his recommendation to the board of education without first discussing the matter with the teacher. This was his initial channel of communication. Whatever may have been the pressures on the superintendent, the teacher was entitled under the Code provision to have knowledge of the complaint and an opportunity to state his side of the case. The superintendent's

* The Code as presently amended refers to "availability or nature of a position," so the described behavior would now be included in that provision.

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position was made even less tenable by his failure to reveal the board's action to the teacher over a period of several months.

It is inevitable that on occasion pressures will be brought to effect reprisals against school personnel. In such cases no member of a professional staff—classroom teacher or administrator—should take any action which would undermine the status of a professional colleague.

OPINION 17

(February 1955)

CONTRACTS, ORAL NEGOTIATIONS—*If an educator has conducted oral negotiations with a school district but has made no final commitment, he may properly conduct negotiations and accept a contract with another school district.*

Principle IV, Sections 6, 7 (1952 Code)

See Principle IV, Section 6 (1968 Code)

Opinions 12, 15, 34, 43

A local association requests an opinion as to whether a classroom teacher acted contrary to the Code on the basis of the following facts:

A few weeks before the opening of the school year the superintendent of schools in District A telephoned a teacher in another city, who was not presently employed, regarding a position. He had received her credentials through an employment agency. The teacher says she indicated definite interest in the position, but told him that due to the time factor she would have to insist on a signed contract at an early date. The superintendent replied that, while several teachers were under consideration, he was confident that a contract would be offered and agreed to seek board approval for her employment as soon as possible. A period of two weeks elapsed without further word from the superintendent. Meanwhile, the teacher had received an offer from District B at a higher salary, which she accepted. She telephoned the superintendent of District A, expressing regrets and explaining the various reasons why the position in District B was more desirable. The superintendent advised the teacher that her contract offer was in the mails and claimed she was unethical because in

his opinion she made a final commitment to District A. The teacher denied having made any such commitment.

The problem of misunderstandings between classroom teachers and administrators growing out of oral negotiations in connection with employment is fairly common. A number of cases not unlike the one presented here have been brought to the attention of the Committee where either a teacher or a superintendent has been charged with unethical conduct. Ideally both the classroom teacher and the superintendent should, so far as possible, make clear the extent of their respective commitments preferably by an exchange of written memoranda. However, this is not always practicable.

Where negotiations precede the issuance of a contract, it is inevitable that in some cases misunderstandings will arise as to just what was said and what commitments were made, even when both parties are acting in good faith. Such misunderstandings arise in employment situations generally. However, the fact that teachers are employed by a public agency adds to the problem. In many cases a superintendent of schools has only the power to nominate; he cannot legally make a final commitment without board action, although he may be all but certain that his recommendations will be approved. This puts the teacher in a position of uncertainty, and he often feels it necessary to initiate or continue negotiations with other school districts pending receipt of a written contract. By the same token the inevitable lapse of time involved can work a serious embarrassment to a superintendent who, after securing approval of a contract, finds that during the interim the prospective teacher has accepted employment elsewhere.

Sections 6 and 7 of Principle IV of the 1952 Code provide that a teacher will:

Section 6. Adhere to the conditions of a contract until service thereunder has been performed, the contract been terminated by mutual consent, or the contract has otherwise been legally terminated.

Section 7. Give and expect due notice before a change of position is to be made.

The Ethics Committee does not presume to pass on what transpired in the conversations referred to in this case. However, on the basis of the facts presented, the Committee is of the opinion that the teacher had made no final commitment to District A and therefore, under the

OPINIONS OF THE NEA ETHICS COMMITTEE

sections cited, could properly enter into a contract with District B. A superintendent and a school board may initiate or continue negotiations with several teachers for a given position pending a final commitment. A teacher may, likewise, in the absence of a final commitment, negotiate for another position without notice to the superintendent. The finding in this Opinion is clearly distinguishable from that in Opinion 15 where a teacher, after accepting a contract in one school district, continued negotiations with and accepted a contract in another district.

OPINION 18

(February 1955)

EMPLOYMENT, SELLING MUSICAL INSTRUMENTS—*While the right to augment teaching income is recognized under the Code, an educator who solicits parents of students in his class to purchase musical instruments is acting improperly.*

Principle IV, Section 10 (1952 Code)

See Principle I, Section 6 (1968 Code)

See Principle II, Section 5 (1968 Code)

See Principle IV, Section 9 (1968 Code)

Opinions 5, 9, 40

A member of the Association requests an opinion as to whether it is ethical for a music teacher in a school system to supplement his salary by selling musical instruments under the following conditions:

The teacher, as an agent for wholesalers or manufacturers, solicits individual members of the school band, which he directs, and students in his music classes for the purpose of selling musical instruments. Sales are made at discount prices substantially under the retail price charged by local merchants.

The Committee has pointed out in previous opinions that the Code of Ethics recognizes, with very few limitations, the right of teachers to supplement their teaching salaries by outside employment.

OPINION 18

In Opinion 9, the Committee held that a teacher who solicits parents of his students for the purchase of encyclopedias acted contrary to Section 10 of Principle IV of the 1952 Code, which provides that a teacher will:

Engage in no gainful employment, outside of his contract, where the employment affects adversely his professional status or impairs his standing with students, associates, and the community.

In Opinion 9, the Committee found that because of the special nature of the student-teacher relationship there was a factor of implied pressure where the potential purchaser was a parent of a student in the teacher's class. Such solicitation was, therefore, deemed improper even though it was recognized that in some situations this could be done without adverse effects. It is the Committee's opinion that a teacher soliciting his students to purchase musical instruments at a profit to himself falls within the finding of Opinion 9 and that the teacher in this case is acting contrary to Section 10 of Principle IV for the reasons stated.

The Committee wishes to call attention to an aspect of the matter which does not directly involve the Code of Ethics. When teachers engage in the sale of goods for profit they enter the field of commercial enterprise and are subject to federal and state trade regulation laws. Thus when a teacher, as an agent for a wholesaler or manufacturer, sells musical instruments to his students at an undisclosed profit and creates the impression that the make of instrument which he sells is the only one satisfactory for the student's use, he may be violating trade regulation statutes. Sales made under such circumstances have often resulted in local criticism of music teachers and the impairment of good public school relations, particularly where local merchants have been adversely affected.

The Committee recognizes that the sale of musical instruments at discount prices constitutes a substantial saving to students and may allow them to purchase instruments which they could not otherwise afford. However, the requirements of federal and state legislation directed against unfair competition cannot be ignored. Because of the difficulty of generalizing as to the application of such legislation in given situations, the Committee at this time merely brings the matter to the attention of the profession.

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OPINION 19

(March 1955)

INSTRUCTIONAL AIDS, BRANDED PRODUCTS—*There is no provision of the Code which governs the selection and use by an educator of instructional materials. Good practice permits comparison of branded products but no recommendation by an educator of a particular brand.*

Principle III (1952 Code)

See Principle I, Section 1 (1968 Code)

See Principle IV, Section 9 (1968 Code)

Opinions 29, 40

A classroom teacher requests an opinion on the following facts:

In a course in consumer education Teacher A utilizes various brands of products without the removal of brand labels. He asks whether it is unethical under Principle III to (a) recommend a particular brand and (b) compare various brands to bring out a knowledge of their particular qualities.

It is the opinion of the Committee that there is no provision of the Code which governs the selection and use of instructional materials. Since a number of inquiries have been received with respect to the use of branded products in the classroom, the Committee has consulted several specialists in the field of consumer education as to what constitutes good practice.

Courses of study and academic standards are prescribed in varying degrees by state law and local board rules, including recommended curriculum bulletins and textbooks. While these requirements determine the general scope and quality of the school program, classroom teachers in most schools are given considerable freedom in the use of supplementary materials, including commercial products. There is agreement that it is improper for a classroom teacher to recommend or promote any specific product. This does not mean that a variety of commercial brands may not be examined and compared in classes where this kind of analysis is an appropriate part of the instruction. Modern educational goals and methods call for the use of real-life materials that will help students to collect data, evaluate facts, and

draw valid conclusions. Thus students learn to analyze motives, weigh values, and make wise choices. The underlying purpose of instruction is to show students how to make wise decisions, not what decisions to make.

OPINION 20

(March 1955)

INTERCOMMUNICATION SYSTEM, USE WITHOUT KNOWLEDGE OF TEACHER—*There is no provision in the Code which governs an administrator's use of an intercommunication system without the knowledge of an educator, but such use can cause tension and resentment on the part of the educator and is contrary to good personnel practice.*

Principles IV, V (1952 Code)

See Principle III, Section 2 (1968 Code)

A classroom teacher requests an opinion on the following facts:

An intercommunication system in a school building is so constructed that a principal, who is supervisor of the classroom teachers, can hear what is occurring in any classroom in the building without the teacher's knowledge. The classroom teacher asks whether such use of the intercommunication system is contrary to Principle V of the 1952 Code.

It is the opinion of the Committee that there is no specific provision in the Code directed to the practice in question. However, the Committee believes that while this practice is not contrary to the letter of the Code, it is contrary to the spirit of Principles IV and V which declare in substance that the professional relationships of teachers are based upon mutual respect and good faith.

It is fundamental that the obligations set forth in these Principles must be fulfilled by both the school administrator and the classroom teacher if the best interests of the children are to be served. Understandably, many classroom teachers regard the practice of a supervisor listening in on a classroom without the teacher's knowledge as a form of spy system. By such use of an intercommunication device, the administrator may hear examples of class performance which are

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not typical or which are out of context. To be uncertain as to when one's conduct of a class is being overheard can result in tension and resentment on the part of the classroom teacher and can undermine the basic elements of good relationships between classroom teachers and school administrators.

OPINION 21

(March 1955)

LOCAL ASSOCIATION, SPEAKERS FOR—*An offer by a commercial organization to pay the cost of an association banquet on condition that the association accept as main speaker a person of the donor's selection may properly be accepted by the association.*

Principle III (1952 Code)

See Principle II, Section 5 (1968 Code)

A university professor requests an opinion on the following facts:

A local association is planning its annual meeting including an evening banquet for all teachers in the school system. Mr. C, the owner and manager of a large retail establishment in the community, offers to pay the entire cost of the banquet with the understanding that he will provide a speaker of his own choosing. It is known that Mr. C is antilabor and that the speaker would present this point of view. The association asks whether acceptance of Mr. C's offer would raise any ethical issue under Principle III of the 1952 Code.

It is the opinion of the Committee that no issue of ethics under the Code is raised on the facts as presented, but rather a question of propriety and judgment. Acceptance of this offer could be interpreted both by teachers and laymen in the community as trading a rostrum in exchange for a banquet. However, the matter is a question for the local association to determine. If the banquet were offered with no strings attached as to the speaker, few persons would raise questions of propriety.

Teachers organizations sometimes invite speakers whom many feel are not promoting the best interests of public education. Their

right to do so is incontrovertible. An association, as in the case of an individual teacher, is not restricted in its right to hear any point of view expressed, however controversial.

Frequently, commercial enterprises offer services or products to teacher organizations for advertising purposes without accompanying obligations. If kept within reasonable bounds, acceptance of such benefits in and of itself has not been generally regarded as improper.

OPINION 22

(March 1955)

LOSS OF CONFIDENCE IN PROFESSIONAL COLLEAGUE, REPORTING BY LOCAL ASSOCIATION—*A local association may properly report its loss of confidence in the integrity of a colleague to the school authorities provided professionally accepted procedures are followed and the report is made through proper channels.*

Principle V, Section 3 (1952 Code)

See Principle IV, Section 7 (1968 Code)

Opinions 8, 11, 23, 25

The executive secretary of a state association requests an opinion on the following questions:

When a local association has concluded, after evidence it regards as sufficient, that a classroom teacher lacks integrity, can it ethically communicate with the board of education to that effect? Would there be an ethical difference if the colleague were a school administrator?

Section 3 of Principle V of the 1952 Code provides that a teacher will:

Speak constructively of other teachers, but report honestly to responsible persons in matters involving the welfare of students, the school system, and the profession.

As the Committee pointed out in Opinion 14, the pertinent provisions of the Code apply to the actions of teachers collectively through their associations as well as individually. Under Section 3 a local asso-

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ciation may properly report to responsible persons its loss of confidence in the integrity of a colleague provided certain professionally accepted procedures are followed and further provided that the association complies with Section 1 of Principle IV which requires that a teacher will "conduct professional business through proper channels." Principals and superintendents are teachers by definition under the Code, and a professional colleague or a local association under Section 3 may report to the appropriate persons with respect to any member of the professional staff.

A local association, before taking action, should present to the person involved the complaint and the evidence in support thereof. The individual must be given an opportunity to answer the complaint. If the association is not satisfied with the explanation given, it may then report to the appropriate school authorities through the proper channels. For example, in the case of a classroom teacher, the report would be made in the first instance to his principal, whereas in the case of a superintendent it would be made directly to the board. Some aspects of what constitute proper channels were considered in Opinions 7, 10, 14, and 16.

It is fundamental that the profession will not reach its full potential effectiveness until local associations are prepared to take action against those whose conduct reflects adversely on the public schools and the profession. However, effective action can take place only where the quality, leadership, and experience of a local association is such that there can be no valid basis for charges of bias or lack of good judgment.

The issue raised in this case presents one of the most important challenges facing professional organizations in public education. In their own interests and in the interests of the public schools, local associations should develop such strength and prestige that action against their own members in appropriate cases will be accepted by the profession and the community with confidence and respect.

OPINION 23

(March 1955)

REFERENCES, PAST DIFFICULTIES—*An administrator may properly withhold in a letter of reference information about past diffi-*

culties which have been resolved and which do not affect an educator's present competence.

DISCRETION, EXERCISE OF—*There is necessarily a wide margin for individual judgment in the formulation of references.*

Principle IV, Section 8 (1952 Code)

Principle V, Section 3 (1952 Code)

See Principle III, Section 8 (1968 Code)

Opinions 8, 11, 22, 25, 36

A local association requests an opinion on the following facts:

A young married man serving in his eighth year as a high school teacher in District A applies for a position in District B. He has proved to be a better than average classroom teacher, and the superintendent in District A believes that he would be successful in the position he is seeking. However, during his second year as a teacher in District A, he was accused of questionable conduct with a high school girl. He was confronted with the situation by the superintendent and admitted his guilt. He was brought up on charges before the board, suspended, and subsequently reinstated. During the past six years his conduct has been exemplary in all respects, and his teaching has been of high quality. The superintendent in District B asks the superintendent in District A for a reference. Is the superintendent required under the Code to reveal the incident which occurred six years previously?

The pertinent provisions of the 1952 Code dealing with references are contained in Principle IV, Section 8, and Principle V, Section 3, which provide that a teacher will:

Section 8. Be fair in all recommendations that are given concerning the work of other teachers.

Section 3. Speak constructively of other teachers, but report honestly to responsible persons in matters involving the welfare of students, the school system, and the profession.

The Committee pointed out in Opinion 11 that in the matter of references there is necessarily a wide margin for individual professional judgment and that the extent to which reference material covers a teacher's past difficulties would usually depend on the question of whether they affect his present or future competence. In that case the difficulty was obviously current, had not been resolved, and there-

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fore, the Committee held that the superintendent should reveal it in his reference. The present case differs in that the difficulty took place six years previously and, in the belief of the superintendent, has been completely resolved. Therefore, it is the opinion of the Committee that, on the facts presented, the superintendent in District A in the exercise of his professional judgment is not required under the Code to include the teacher's past difficulty in his reference.

OPINION 24

(April 1955)

CONFIDENTIAL INFORMATION ABOUT STUDENTS—*It is improper to reveal confidential information about the family background of a student who is causing difficulty in the classroom, even though the motive is to secure the cooperation of fellow students during the period of the child's adjustment.*

DISCRETION, EXERCISE OF—*Teachers have considerable discretion as to means of securing the cooperation of a class with respect to a child who is causing difficulties.*

Principle I, Section 5 (1952 Code)

Principle II, Section 4 (1952 Code)

See Principle I, Sections 4, 7 (1968 Code)

Opinions 28, 31, 39

A school administrator requests an opinion on the following facts:

Mr. and Mrs. A visited the third-grade teacher in the local school to discuss enrolling their eight-year-old niece in her class and to explain confidentially the circumstances under which the child was coming to live with them. Her parents had had increasingly serious marital disagreements over the past two years with frequent separations and open talk of divorce. The effects on their daughter became so marked that they had finally agreed to have her live with the A's until their marital difficulties were resolved. Mr. and Mrs. A explained to the classroom teacher in some detail the kind of behavior their niece had been exhibiting in school in her own community, including inattentiveness, overactivity, and flare-ups of temper, behavior which they felt might be

accentuated in a new school setting. The new teacher was sympathetic and agreed to do what she could to help in the child's adjustment. A short time after the girl entered the school, her behavior became a distraction to the class. One day the teacher asked the girl to leave the classroom so she could tell the other pupils "a little secret" about her. In her absence, the teacher told the rest of the class about the child's home situation, stating that she wanted to enlist their cooperation in tolerating any difficult behavior during this adjustment period. The child later reported to her aunt and uncle in tears that her classmates were teasing her about her parents not loving her, getting a divorce, and never taking her back to live with them. Was the teacher ethical in telling this child's classmates about her family background?

The pertinent provisions of the 1952 Code governing the question presented are Section 5 of Principle I and Section 4 of Principle II, which provide that a teacher will:

Section 5. Respect the right of every student to have confidential information about himself withheld except when its release is to authorized agencies or is required by law.

Section 4. Provide parents with information that will serve the best interests of their children, and be discreet with information received from parents.

It is the opinion of the Committee that the teacher's action was contrary to the provisions cited. The background of the child's home environment was told to the teacher in confidence by relatives acting in place of the parents. Under the circumstances, the information should not have been revealed to the class without the approval of Mr. and Mrs. A.

The Committee recognizes that the teacher in this case was undoubtedly acting in what she thought were the best interests of the child. The Committee further recognizes that teachers must have considerable discretion as to means of securing the cooperation of a class with respect to any child who is causing difficulties. However, good intentions cannot offset the ethical implications of revealing information given about a child in confidence. Discretion carries with it an obligation to protect any child from the misuse of information about him.

Apart from the confidential nature of the information given to the class, a question of good judgment was involved. The teacher should

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have known that children at the third-grade level cannot be expected to understand the implications of a broken home and its effect upon a child, and that it would be natural for some children to react as they did in this case.

OPINION 25

(April 1955)

REFERENCES, UNJUSTIFIED RESERVATIONS IN—*It is improper for an administrator to imply in a letter of reference that he had some reservation about an educator's competence if the educator's record has been outstanding.*

Principle IV, Section 8 (1952 Code)

Principle V, Section 3 (1952 Code)

See Principle III, Section 8 (1968 Code)

Opinions 8, 11, 22, 23, 36

A local association requests an opinion as to whether a superintendent acted contrary to the Code in the light of the following facts:

A teacher of 10 years' service in District A with an outstanding record of teaching ability was offered a position in District B at a substantial increase in salary. Superintendent A, upon learning of the offer, sought to persuade the teacher to remain. However, she felt her opportunities for advancement were greater in District B. In response to a request from Superintendent B for a letter of reference, Superintendent A implied that he had some reservation about the teacher's competence. He had consistently praised the teacher's work, and her evaluation records by her supervisors on file in District A were uniformly excellent.

It is the opinion of the Committee that Superintendent A acted contrary to the provisions of Section 8 of Principle IV and Section 3 of Principle V of the 1952 Code, which provide that a teacher will:

Section 8. Be fair in all recommendations that are given concerning the work of other teachers.

Section 3. Speak constructively of other teachers, but report honestly to responsible persons in matters involving the welfare of students, the school system, and the profession.

It is natural and proper that a superintendent will make every effort to retain competent teachers in his school system. During the current teacher shortage it is understandable that competition to secure and retain good teachers exists among school administrators. However, as the Committee pointed out in Opinion 11, it is inappropriate to suppress data relating to a teacher's competence where the motive is to retain a qualified teacher who is seeking another position. A fair reference neither withholds relevant information, favorable or unfavorable, nor includes unwarranted implications as to a teacher's ability.

The reward of promotion is a basic incentive to good teaching. It is fundamental to the maintenance of morale in a school district for classroom teachers to believe that their administrators are fair in acknowledging competence both within the school system and in giving references to other school districts. The failure of an administrator to acknowledge a job well done is not only unfair to teachers, but to the extent that teacher morale is adversely affected, it is injurious to the children.

OPINION 26

(April 1955)

CITIZENSHIP, RIGHTS OF—*Educators may properly urge friends and acquaintances to support a school bond issue and candidates in a school board election who favor its passage.*

POLITICAL ACTION, EXERCISE OF GOOD JUDGMENT—*As public employees, educators should exercise good judgment as to the manner of their participation in political campaigns. Under certain circumstances political activity which they have the right to engage in as citizens might be precluded under the Code.*

Principle III, Section 2 (1952 Code)

See Principle II, Sections 3, 4 (1968 Code)

Opinions 32, 42

A local association requests an opinion on the following facts:

A school board election was to be held in District A in April. On the same day a vote was to be taken on a bond issue for the

OPINIONS OF THE NEA ETHICS COMMITTEE

construction of a junior high school. Three school board candidates favored the bond issue while two opposed it. During the course of the election campaign, certain teachers called upon a number of friends and acquaintances in the community and urged them to support the school bond issue and those candidates who favored it. None of the political activity of the teachers took place during school hours or on school grounds. The local association asks whether the activity of the teachers was proper under the provisions of Principle III, Section 2, of the Code.

The National Education Association has consistently taken the position that teachers should be good citizens and take part in civic and political affairs, including discussion, voting, and the formulation of public opinion. Anything which keeps teachers from being active citizens, whether it be misguided public opinion or the inertia of teachers themselves, is a barrier to good citizenship education in the schools.

This position was supported by the Congress of the United States when the question was squarely presented in the form of a proposed amendment to the Hatch Act. The Hatch Act, adopted in 1940, prohibited any officer or employee of any state or local agency, who received any part of his compensation out of federal funds, from using his authority or influence to affect an election or nomination or from taking any active part in political management or campaigns. Under interpretations and decisions of the United States Civil Service Commission, the Act came to be applied to several hundred thousand teachers in schools and colleges, whose compensation was paid in part from federal funds. On the theory that, in the public interest, teachers have the right and should be encouraged to participate to the fullest extent in public life and school affairs in particular, an amendment to the Act, sponsored by the NEA, was introduced which would exempt teachers from its provisions. In 1942 the amendment was adopted unanimously by the Senate and by a voice vote in the House.

Section 2 of Principle III of the 1952 Code provides that a teacher will:

Perform the duties of citizenship, and participate in community activities with due consideration for his obligations to his students, his family, and himself.

OPINION 27

It is the opinion of the Committee that under this provision the teachers in this case were acting properly in urging passage of the bond issue and election of school board candidates supporting it. Teachers have the right and the duty to take appropriate political action to further what they deem to be in the interests of the children and the public school system. The Committee recognizes that as public employees teachers are required to exercise good judgment as to the manner in which they participate in political campaigns and conform to any state laws governing political activity of public employees. Under certain circumstances political activity which they would have the right to engage in as citizens might be precluded under the Code. However, no such issue is raised on the facts presented.

OPINION 27¹

(April 1955)

EMPLOYMENT, TUTORING, MUSIC—*A director of a school band may properly give private lessons to members of the band and to students in his music classes, provided the arrangements conform to policies of the school board. In the absence of board policies the arrangements should be approved by the chief school officer or the local professional association.*

Principle I, Section 6 (1952 Code)

See Principle I, Section 8 (1968 Code)

See Note below

Opinion 6

A member of the Association requests an opinion as to whether a music teacher is acting contrary to the Code in giving private lessons under the following circumstances:

The music instructor directs the school band and gives private lessons for compensation to many of the band members as well as to students who are in his regular music classes, some of whom are candidates for the band.

¹ The wording of I-8 in the 1968 Code would prohibit tutoring one's own students except when no other qualified teacher is reasonably available.

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The pertinent provision in the 1952 Code is Section 6 of Principle I, which states that a teacher will:

Accept no remuneration for tutoring except in accordance with approved policies of the governing board.

This section was construed in Opinion 6 which dealt with the overall question of tutoring. It was recognized in the Opinion that the school system as a whole as well as the teacher has a responsibility for ensuring that tutoring will be conducted in the best interests of all concerned, and that circumstances differ widely among communities. The Opinion also suggested specific safeguards to be included in tutoring policies.

The current request raises certain questions not necessarily involved in tutoring in general. Music is a specialized field. In many school systems there is only one music teacher, and he may also direct the band. He may be by far the most competent if not the only available person to give special instruction to students who need it. It would be safe to assume that most students interested in music would be either in music classes, in the school band, or both, and it would clearly not be in their interests or those of the school virtually to prohibit them from obtaining private instruction. On the other hand, the dangers of abuse are just as real in tutoring in a specialized field like music as they are in tutoring in other subject matter. They may, in fact, be greater because of the inclination in a given community to overlook necessary safeguards due to the unavailability of other tutoring resources. Also, in communities where membership in the band carries great prestige, there is danger that private tutoring will be presumed by students or their parents to give a competitive advantage.

It is the opinion of the Committee that under the facts presented the music teacher could ethically give private lessons for compensation to members of the school band and to students in his classes provided that the arrangements for such tutoring conform with policies laid down by the school board.* It is the Committee's further opinion that, in the absence of board policies governing tutoring, the teacher could ethically do so if the arrangements were approved by the superintendent of schools.*

* See footnote on previous page.

OPINION 28

(May 1955)

CONFIDENTIAL INFORMATION ABOUT STUDENTS—*It is improper for an educator to reveal confidential information to parents about the disabilities of students in his class.*

Principle I, Section 2, 5 (1952 Code)

See Principle I, Sections 6, 7 (1968 Code)

Opinions 13, 24, 39

A school principal requests an opinion as to whether a teacher acted contrary to the Code under the following facts:

A teacher was assigned to a class of retarded children. He was told that the problems of each child were complex; that the extensive cumulative records, including test scores, anecdotal records, and written results of visits made to homes by teachers and social workers, had been established as confidential information intended to help the teacher better understand these children and their problems. Within a few weeks after the school year commenced, some parents requested that their children be transferred to another age or grade group. When asked by the administration the reason for such requests, the common answer was that other children in the group were feeble-minded or emotionally disturbed and were shunned by normal children. In addition, a number of other parents recommended to the administration that the classroom teacher should receive additional compensation because the difficulties of his teaching assignment required special skill and many hours of extra work. The teacher was questioned as to the source of the parents' complaints. He replied that facts as to disabilities and problems of various individual children had been revealed by him in a number of parent-teacher conferences, because it was only possible for him to receive an increase in salary if the parents knew the special skill and long hours of extra work required in his teaching assignment.

It is the opinion of the Committee that the teacher's action was contrary to provisions of Sections 2 and 5 of Principle I, which provide that a teacher will:

Section 2. Recognize the differences among students and seek to meet their individual needs.

OPINIONS OF THE NEA ETHICS COMMITTEE

Section 5. Respect the right of every student to have confidential information about himself withheld except when its release is to authorized agencies or is required by law.

It is a basic professional concept that the teacher shall be concerned with the development of the whole child, which requires that he be sensitive to those circumstances and conditions which tend to promote the child's growth as an individual or to thwart it. This is especially true in the case of a child with a crippling condition, retarded mental development, or any other disability. One key to the maximum all-around development of a child is self-respect. This means confidence in his ability to assume a useful, acceptable role in the everyday scheme of things. No child can possess this confidence who is rejected, and no child without this confidence can assume either the social or intellectual role that potentially is his. The teacher, in order to guide a child to his maximum development, learns all he can about him. Such information as he possesses should be used only as a means of guiding the child toward his full potential.

The teacher in this case not only committed a breach of confidence under Section 5 of Principle I in revealing information about his students to various parents, but exploited the disabilities of the children in an effort to promote his own financial interests. This constituted a failure to seek to meet the individual needs of his students under the provisions of Section 2 of Principle I. By revealing confidential information to unauthorized persons, the teacher had in effect rejected members of his class. It is basic that the rejection of children individually or as a group cannot be hidden from them. Injury to the children under such circumstances must be presumed. In addition, the teacher acted contrary to Section 1 of Principle IV by endeavoring to use the children's problems with parents as a leverage for securing an increase in salary rather than appealing through proper channels to the appropriate school authorities.

OPINION 29

(May 1955)

INSTRUCTIONAL AIDS, COMMERCIALY SPONSORED PUBLICATIONS—*There is no provision of the Code which governs the selection and use by an educator of instructional materials.*

OPINION 29

Good practice requires that commercially sponsored materials be selected on a basis of their instructional value and that students be protected from exploitation by any special interest group.

Principle III (1952 Code)

See Principle IV, Section 9 (1968 Code)

Opinion 19

A local association requests an opinion as to whether Principle III of the 1952 Code sets up any standards governing the selection and use of publications distributed to the schools as instructional aids by commercial organizations.

In Opinion 19 the Committee found, in connection with the use of branded products in the classroom, that there is no provision of the Code which governs the selection and use of instructional materials. That finding applies equally to the use of commercially sponsored publications. Since this question has been the subject of a number of inquiries as to the application of the Code, the Committee has consulted several specialists familiar with the problems presented.

There is agreement that such materials can be used effectively in many classrooms. However, students should be advised that these publications are designed to create favorable attitudes or positive action on behalf of the sponsoring organizations. Obviously, such supplementary materials should be selected on a basis of their instructional values. In some school systems, often with the advice of laymen representing many viewpoints, criteria have been developed for the procurement, acceptance, and utilization of commercially sponsored materials. It is fundamental that these materials, from whatever source, should supplement and not supplant prescribed textbooks and curriculum bulletins. Moreover, in their use, students should be led to appraise their value in terms of possible bias, emphasis, and motive. It must always be kept in mind that the public schools belong to all the people and that the teacher has an obligation to protect his students from exploitation by any special interest group.

OPINION 30

(May 1955)

CONTROVERSIAL ISSUES, DISCUSSION OF—*An educator may properly identify and express his own point of view in classroom*

OPINIONS OF THE NEA ETHICS COMMITTEE

discussion, but in doing so assumes certain correlative responsibilities.

Principle III, Section 3 (1952 Code)

See Principle I, Sections 1, 2 (1968 Code)

See Principle II, Section 4 (1968 Code)

A superintendent of schools requests an opinion on the following facts:

A high school social studies teacher was conducting a class in current events. At that time, newspapers, periodicals, radio, and television across the nation were extensively reporting congressional investigations concerned with the question of possible acts of disloyalty on the part of certain people to the United States. The procedure had been to assign readings and radio and television reports on this issue and to obtain opinions from members of the students' families. As study and discussion continued, a growing cleavage developed among members of the class. The classroom teacher maintained to his students that he was taking an objective point of view. On one occasion a student read in class a severe criticism by a United States Senator of UNESCO and the United Nations, which were controversial issues in the community. The Senator had stated that no good American could support either of these two international agencies, or if he did, his loyalty could appropriately be questioned. The teacher at that point said, "I am proud to be a supporter of both of these agencies, and permit me to say that any United States Senator who criticizes such participation is himself not a good American." This statement as expressed by the teacher was reported in the homes of numerous pupils, whereupon a group of parents called upon the school superintendent and protested. The superintendent asks if the teacher acted contrary to Principle III, Section 3, of the 1952 Code.

Section 3 of Principle III of the 1952 Code provides that a teacher will:

Discuss controversial issues from an objective point of view, thereby keeping his class free from partisan opinions.

The requirement of objective discussion in Section 3 does not preclude the right of a teacher to identify and express his own point of view on controversial issues. However, in exercising this right he

OPINION 31

assumes certain correlative responsibilities. These include the duty to guide discussion of controversial issues toward helping students to learn how to think for themselves and to respect the opinions of others. In this process a teacher is obligated to keep his own opinions in the background until the students have had an opportunity for consideration of all the facts. He is also obligated to recognize his own bias and to refrain from dogmatic statements. Whether the teacher, in exercising his right to express his views, has fulfilled his correlative responsibilities can only be determined in the light of all the facts. There is no simple test or yardstick. Usually the question is not one of ethics but rather of tact, good judgment, or scholarship.

In this case it is the opinion of the Committee that the teacher was within his rights under the Code to identify and express his personal viewpoints toward UNESCO and the United Nations, provided that he had first allowed sufficient discussion of the issue. However, the Committee believes he was acting contrary to the requirement of objectivity in Principle III, Section 3, when he stated that a Senator who criticizes participation in these agencies is himself not a good American. The fact that the Senator was irresponsible in questioning the loyalty of anyone who supported these agencies could not justify the teacher in being similarly irresponsible in classroom discussion.

OPINION 31

(May 1955)

REPORTS TO PARENTS—*It is improper for an educator in a report to parents to give a false impression as to a student's general adjustment in the classroom.*

DISCRETION, EXERCISE OF—*Educators have considerable discretion as to the content, detail, and emphasis in reports to parents.*

Principle II, Sections 4, 5 (1952 Code)

See Principle I, Section 2 (1968 Code)*

Opinion 24, 37

* Reports of pupil progress may generally be grouped into the subject matter for which the teacher is responsible for purposes of relating this opinion to the 1968 Code of Ethics.

OPINIONS OF THE NEA ETHICS COMMITTEE

A principal of an elementary school requests an opinion on the following statement of facts:

Teacher A had a child in his class who had trouble getting along with other children and very much resented any type of authority. In a progress report to the child's parents, Teacher A pointed out these difficulties. The parents were surprised and disturbed. They said that Teacher B, who taught the child for the two previous years, had given most favorable reports on his adjustment and had not mentioned any difficulties. Thereafter, Teacher A reviewed Teacher B's records in the child's cumulative folder. These specifically set forth the problems he had with his classmates and with authority, yet included copies of communications by Teacher B to the parents which omitted any reference to such difficulties. The school principal asks whether Teacher B acted contrary to the Code.

The pertinent provisions of the 1952 Code are Sections 4 and 5 of Principle II, which state that a teacher will:

Section 4. Provide parents with information that will serve the best interests of their children, and be discreet with information received from parents.

Section 5. Keep parents informed about the progress of their children as interpreted in terms of the purposes of the school.

Obviously teachers must have considerable discretion as to the content of progress reports to parents. Such reports should be as constructive as possible and should take into account the attitudes of individual parents. While it is not always desirable to give complete details, particularly where such information might be misunderstood or misused, it is not proper to give a false impression of a child's general adjustment. A teacher and a child's parents should be working cooperatively on behalf of the child, particularly where the child is having difficulties in the classroom. If parents are given a false impression of classroom difficulties there can be no adequate cooperation, and as a consequence, the best interests of the child are not served.

On the basis of the facts presented in the present case, it is the opinion of the Committee that Teacher B acted contrary to the provisions of Sections 4 and 5 of Principle II of the 1952 Code.

OPINION 32

(May 1955)

CITIZENSHIP, RIGHTS OF—*It is improper for educators to distribute campaign literature supporting individual candidates in a school board election on school property and on school time.*

Principle III, Section 2 (1952 Code)

See Principle II, Section 4 (1968 Code)

Opinions 26, 42

A local association requests an opinion on the following facts:

During a heated school board election campaign in School District A, a substantial number of teachers actively supported various candidates. A few teachers distributed campaign literature in their classrooms supporting their candidates and asked the students to take the literature home to their parents. The local association asks whether the teachers acted properly in distributing such literature in the light of Section 2 of Principle III of the 1952 Code.

Section 2 of Principle III provides that a teacher will:

Perform the duties of citizenship, and participate in community activities with due consideration for his obligation to his students, his family, and himself.

In Opinion 26 the Committee pointed out that while teachers have the right and the obligation to perform the duties of citizenship, they are bound as public employees to use good judgment in the exercise of their political rights. It is the opinion of the Committee that a public school teacher, in performing the duties of citizenship, may not properly distribute campaign literature supporting individual candidates on school property and school time. By doing so, he is failing to give due consideration to his obligations to his students as required in Section 2. The public schools belong to all the people, and any attempt to use them as a vehicle for promoting political candidates is almost certain to cause ill will among parents and taxpayers and to reflect adversely on the profession.

OPINIONS OF THE NEA ETHICS COMMITTEE

OPINION 33

(November 1955)

COMMUNITY ACTIVITIES, PARTICIPATION IN—*An educator, in the exercise of his professional judgment, must decide for himself the kind and extent of his community activities.**

Principle III, Section 2 (1952 Code)

See Principle II, Section 3 (1968 Code)

A superintendent of schools requests an opinion on the following facts:

The director of a local Community Chest drive asked the superintendent of schools to enlist the participation of a well-known and popular elementary school teacher as a member of the planning committee for the drive. For several years, the drive had been unsuccessful, seriously handicapping the services of social agencies. This was the first time a staff member of the school system had been asked to be on the committee, and admittedly, the teacher's acceptance would strengthen community-school relations. The teacher, who had a class of 40 students plus additional duties such as supervision of a playground and a lunchroom, was also active in local women's groups and the PTA. She found that serving on the drive committee would entail an average of 8 to 10 hours of outside work a week over a period of three months. The superintendent advised that staff shortages would make it impossible to relieve her of any existing school assignments. Because of the demands of her personal family situation, along with her school duties and extracurricular activities, the teacher felt that she could not do justice to her teaching responsibilities if she accepted. She therefore declined to serve and asked the superintendent if her refusal was unethical. The superintendent has referred her question to the Ethics Committee.

The pertinent provision of the 1952 Code is Section 2 of Principle III, which provides that a teacher will:

Perform the duties of citizenship, and participate in community activities with due consideration for his obligations to his students, his family, and himself.

* The 1968 Code reflects the attitude that an ethical violation does not occur except when an educator interferes in a colleague's right to determine his own means of citizenship activity in the private environment.

A teacher is legally obligated to perform only those duties specifically set forth or implied in his written contract. However, it is generally recognized that in fulfilling his professional obligations a teacher has both the right and the duty to take part in community activities. While this is an obligation of every citizen in a democracy, the teacher, because of his training and background, often has a unique contribution to make. He frequently finds that identifying himself with the community through such participation is an enriching experience contributing to his professional growth, as well as being an important factor in developing good community-school relations.

A matter of widespread concern to the profession is the fact that in some school systems there are teachers who either refuse to devote time to community affairs or make no effort to do so. Their failure to identify themselves with the community can result in criticism of the school system, and this, in turn, may adversely affect local public support of the schools. On the other hand, some teachers engage in community activities to such an extent that they impair their effectiveness as teachers.

On the facts presented in this case, it is the opinion of the Committee that the teacher, in the exercise of her professional judgment, could properly refuse to serve on the planning committee of the Community Chest drive. The total personal and professional obligations of each teacher are an individual matter and may vary from time to time. Each teacher must decide for himself the kind and extent of his community activities and must have considerable discretion in selecting those which are within the range of his interest and talents.

In reaching a decision, the teacher must bear in mind that his first and primary professional responsibility is to his students. To meet this responsibility, he must not neglect his obligations to his family and himself, which include providing for recreation and relaxation necessary for physical and emotional health. Under Section 2 of Principle III of the Code, the ultimate test as to participation in a given community activity is whether in good conscience the teacher feels that it will or will not adversely affect his obligations to his students.

OPINIONS OF THE NEA ETHICS COMMITTEE

OPINION 34

(November 1955)

CONTRACTS, RESIGNATION—*It is improper for an educator to resign to accept a new position after his contract has been automatically renewed and the governing board has refused to release him.*

Principle IV, Section 6 (1952 Code)

See Principle IV, Section 6 (1968 Code)

Opinions 12, 15, 17, 43

The executive secretary of a state association requests an opinion as to whether a teacher could properly resign from his position under the following facts:

A state statute provides that after a probationary period of three years a teacher's contract shall be automatically renewed for a one-year period unless the teacher resigns or the board gives notice of nonrenewal prior to April 1. Teacher A, who had served more than three years, received no notice of nonrenewal, and his contract was automatically renewed as of April 1. On June 1, he notified the board that he wished to accept another position in a nearby city as of September 1 and asked for a release, which the board denied. The teacher then resigned and accepted the new position. The superintendent in the nearby city knew of the circumstances surrounding the resignation. The board charged that the teacher was under contract for the ensuing school year, having failed to submit a resignation prior to April 1, and that his action was in violation of Section 6 of Principle IV of the NEA Code of Ethics. The teacher took the position that if the Code were so construed, it would preclude teachers from securing better positions, because a continuing contract statute makes it difficult to know of vacancies until after the renewal date. He argued that only reasonable notice was required.

Section 6 of Principle IV provides that a teacher will:

Adhere to the conditions of a contract until service thereunder has been performed, the contract has been terminated by mutual consent, or the contract has otherwise been legally terminated.

Undoubtedly some state-wide continuing contract laws make it difficult for a teacher seeking a new position to know of openings outside his school district in time to resign in advance of the contract renewal date. Generally, a board of education will release a teacher from his contract if ample notice is given prior to the opening of the school year, even though the contract has been automatically renewed. However, where a board refuses to do so, the Committee believes that under the Code the teacher has no alternative but to fulfill his contract. It is the opinion of the Committee that, on the facts presented, the teacher in this case acted contrary to Principle IV, Section 6, of the 1952 Code. As the superintendent who recommended the teacher for the new position knew of the circumstances, he was likewise culpable.

Continuing contract laws have been enacted primarily for the benefit of teachers. Any practice which tends to undermine the protective features of such laws works an injury to the profession. Most continuing contract laws are specific only with respect to the date on or before which the board must give notice in order to prevent automatic renewal of a contract and do not require a prior resignation by teachers who may not wish to remain in the school system; by board policy teachers are usually given a reasonable period thereafter in which to resign. Statutes like the one in the present case can work a hardship not only on teachers, but also on boards of education and superintendents. In the case of teachers, such a statute tends to preclude an opportunity to learn of vacancies in time to meet the requirements of the statute. In the case of boards of education and superintendents, it tends to prevent the recruitment from other school systems of teachers whose contracts have already been renewed where the board will not grant releases.

OPINION 35

(March 1956)

PROPER CHANNELS. QUESTIONS CONCERNING SCHOOL BOARD POLICIES—*In an association meeting, an educator may properly raise a question of policy affecting all educators alike with the official responsible for that policy.*

Principle IV, Section 1 (1952 Code)

See Principle IV, Section 7 (1968 Code)

Opinions 7, 10, 14, 16, 38

OPINIONS OF THE NEA ETHICS COMMITTEE

A classroom teacher asks whether under the NEA Code of Ethics he failed to conduct professional business through proper channels in the following situation:

A school-district policy governing leaves of absence was adopted by the board of education as a result of a project conducted by the local association in cooperation with the superintendent of schools. When it had been in effect for a period, the superintendent discovered that several teachers were abusing its provisions. Following a conference with all the principals in the school system, and without consulting the association, he recommended to the board that the policy be rescinded, and the board accepted his recommendation. Some time thereafter, the superintendent upon invitation met with the local association and gave a general talk on certain matters affecting the school system which were not related to the leave program. After his talk, the meeting was opened for discussion and question. One of the teachers asked why the superintendent, without consultation with the association, had recommended that the leaves-of-absence program be rescinded. The teacher pointed out that many association members considered this an inappropriate way to proceed in the light of the background of the program. The superintendent gave his reasons for the action taken. Following the meeting, the teacher's principal accused him of being unethical, saying the complaint should have been discussed with the principal before it was presented to the superintendent at the meeting of the association.

Section 1 of Principle IV of the 1952 Code provides that the teacher will:

Conduct professional business through the proper channels.

The Committee, in a number of opinions, has held that failure on the part of superintendents or classroom teachers to conduct professional business through proper channels can lead to misunderstanding and resentments which tend to undermine the proper functioning of a school system. However, it does not follow that teachers under all circumstances are precluded from presenting matters of general interest to the school system directly to a superintendent.

In the present case it is the opinion of the Committee that the teacher did not go outside of proper channels in raising a question dealing with leaves of absence with the superintendent at a meeting of the association, without presenting the matter to the principal in

OPINION 36

the first instance. The revocation by the board of the leaves-of-absence program was not a matter under the jurisdiction or control of the teacher's principal.

Moreover, the channel had already been established in view of the fact that the leaves-of-absence program had originated as a joint project of the association and the superintendent. The action of the board affected all teachers in the schools.

The Committee wishes to make two observations. First, it believes that it was highly inappropriate for the superintendent of schools, having developed the program in cooperation with the local association, to fail to consult the association before recommending the revocation of the leaves-of-absence policy.

Second, the Committee believes that the association, in fulfilling its professional obligation, should have taken up the matter with the superintendent immediately after the revocation, rather than have it raised by an individual teacher at an association meeting.

The issue raised in this case illustrates an important role of a local association. One of its chief values is that it provides a means whereby teachers' views may be appropriately and effectively brought to the attention of the school administration and the board of education. There is no violation of the Code when a member in a meeting of the association raises a question of policy affecting all teachers alike with the official who is responsible for that policy.

OPINION 36

(February 1958)

RECOMMENDATIONS, INCONSISTENT WITH VERBAL ASSURANCE—*It is improper for a chief school officer to give verbal assurance of a favorable recommendation and later issue an unfavorable recommendation.*

DISMISSAL, STATEMENT OF REASONS FOR—*A chief school officer may not properly refuse to provide a written statement of reasons for dismissal when requested in writing to do so by the person dismissed.*

Principle V, Sections 1, 6 (1952 Code)

See Principle III, Sections 3, 6, 8 (1968 Code)

Opinions 2, 10, 11, 23, 25

OPINIONS OF THE NEA ETHICS COMMITTEE

A former principal, now working in industry, raises the question of whether a superintendent acted unethically in the following situation:

A principal in State I served successfully in District A for a number of years. He resigned to accept a position in District B in the same state. At the end of four years, his employment was terminated without his ever having received adverse criticism or negative evaluation of his work from the superintendent of District B. He received no response to his written request for a written statement of reasons for the termination of his employment. The superintendent also refused to state any reason when asked to do so orally, but assured the principal he would be given a good recommendation. The principal applied to the state department of education in State II for an administrative certificate. A favorable recommendation from the superintendents of the two preceding employing school districts was required of out-of-state applicants with experience in more than one district. The superintendent of District A sent the principal a copy of his favorable recommendation. The principal was denied an administrative certificate in State II solely because the recommendation of the superintendent of District B was unfavorable. Was the superintendent of District B guilty of unethical conduct?

It is the opinion of the Committee on Professional Ethics that the actions of the superintendent of School District B violated the provisions of Principle V, Sections 1 and 6, of the 1952 NEA Code of Ethics. These sections require that a teacher will:

Section 1. Deal with other members of the profession in the same manner as he himself wishes to be treated.

Section 6. Make the teaching profession so attractive in ideals and practices that sincere and able young people will want to enter it.

In Opinion 2 the Committee construed the term *teacher* used in the 1929 Code as applicable to superintendents and supervisors. In Opinion 10 the Committee held that the provisions of the 1952 Code apply alike to administrators and classroom teachers. It now affirms this interpretation of the Code and wishes to call attention to the obligation of members of the teaching profession to abide by the provisions of the Code, regardless of the position held or function performed.

The superintendent of District B was under an obligation to report honestly to responsible persons in matters involving the welfare of

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students, the school system, and the profession (Principle V, Section 3). He was under an equal obligation to be fair in his recommendation concerning the principal in this case (Principle IV, Section 8).

It may be that an unfavorable recommendation was the only fair and honest report the superintendent could give; under the facts stated, however, having assured the principal that he would be given a good recommendation, the superintendent could not issue an unfavorable recommendation without violating Principle V, Section 1, of the 1952 Code of Ethics.

The Committee notes that on one occasion the principal requested the superintendent of District B in writing to provide him with a written statement of reasons for the termination of his employment; on another occasion, an oral request for a statement of reasons was made.

Sound administrative practice requires that a superintendent provide a written statement of reasons for the termination of employment or failure to renew the contract of a member of the teaching profession if the person concerned requests in writing that such a statement be provided. In some states, the right of a teacher to a written statement of reason for termination of his employment is established by statute.

In the opinion of the Committee, the refusal of the superintendent of District B to provide the principal with a written statement of reasons in this instance constituted a violation of Principle V, Section 1, of the 1952 Code of Ethics.

The Committee recognizes that the action of the superintendent of District B tended to make the teaching profession unattractive to young people. It was a disservice to the teaching profession as a whole and constituted, in the opinion of the Committee, a violation of Principle V, Section 6, of the 1952 Code of Ethics.

OPINION 37

(April 1958)

REPORTS TO PARENTS—*It is improper for an educator deliberately to assign a grade that reflects factors irrelevant to the performance or progress of the student.*

Principle I, Section 1 (1952 Code)

Principle II, Section 5 (1952 Code)

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See Principle I, Section 2 (1968 Code)*

Opinion 31

A classroom teacher requests an opinion on the following statement of facts:

A teacher assigned a grade of "C" to a student whose work justified this grade, but who had never received a grade lower than a "B." The parents of the student, relying on the past grades of their child and feeling that the teacher had not been fair, went to the principal and made a vigorous protest. The principal advised the parents that in the absence of a clear abuse of discretion on the part of the teacher, he could not intercede. The principal then conferred with the teacher, who refused to change the grade. After the conference, the principal notified the parents that he had conferred with the teacher and that the student's grade would not be raised. During the next report period, the student's performance continued unchanged. Wishing to avoid further unpleasantness, however, at the end of the report period the teacher assigned the student a grade of "B." Was the teacher guilty of unethical conduct?

The conduct of the teacher involves Principle I, Section 1, and Principle II, Section 5, of the 1952 Code, which require a teacher to:

Section 1. Deal justly and impartially with students regardless of their physical, mental, emotional, political, economic, social, racial or religious characteristics.

Section 5. Keep parents informed about the progress of their children as interpreted in terms of the purposes of the school.

The determination of a student's grade frequently involves a delicate judgment on the part of the teacher. This judgment cannot be just to the student if it purposefully reflects factors irrelevant to his performance or progress. To assign a higher grade than a student deserves is as unjust to the student as it would be to assign him a lower grade than he deserves. In the situation described, the grade assigned for the second report period reflected the teacher's desire to avoid further unpleasantness with the parents rather than a just and impartial evaluation of the student's performance. The action of the teacher in this case therefore violated Principle I, Section 1, of the 1952 Code.

* See footnote with Opinion 31.

The Committee is mindful that a grade standing alone may not provide a precise indication of a student's performance or progress. Following the protest registered by the parents, sound practice may have required that the teacher try to arrange a conference with them in order to interpret any proposed grade for the next report period. The "B" assigned at the end of the second report period could reasonably have been interpreted to indicate improved student performance, particularly in view of the teacher's refusal to raise the earlier grade. The action of the teacher in effect misinformed the parents about the progress of their child and therefore violated Section 5 of Principle II of the 1952 Code.

OPINION 38

(May 1959)

PROPER CHANNELS: PROCEDURES FOR SUBMITTING SALARY PROPOSAL OF MINORITY GROUP—*It is improper for a minority group of a local association to submit a salary proposal directly to a board of education without advance consultation with the superintendent and notice of its intentions at the meeting when the majority proposal is adopted.*

LOCAL ASSOCIATION, PUBLIC CONDEMNATION OF INVESTIGATION REPORT BY—*It is improper for a local association publicly to condemn a report of an investigation it requested without first pointing out specific errors in the report to the professional group that made the investigation and affording the group an opportunity to respond.*

Principle IV, Section 1 (1952 Code)

Principle V, Section 2 (1952 Code)

See Principle II, Section 1 (1968 Code)

See Principle IV, Section 7 (1968 Code)

Opinions 2, 7, 10, 14, 16, 35

The president of an affiliated local association raises the question of whether unethical conduct was involved in the following situation:

After consultations with the superintendent, in preparing for salary discussions with the board of education, the salary com-

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mittee of a local teachers association submitted a proposed salary schedule to the membership at a general meeting. Due notice of the meeting had been given, and a quorum was present.

After heated debate, a majority of the members present voted in favor of the proposed schedule. When the salary committee met with the board, it was surprised to learn that a minority group had submitted a conflicting salary proposal directly to the board. The board accepted the proposal of the minority group.

Later in the year, a community controversy of long standing over the personnel situation in the school system came to a head.

By a majority vote, the local association requested the Personnel Policies Committee of the state teachers association to investigate the situation and make recommendations for improvement. It was understood that such an investigation would normally result in a published report to the community. The Personnel Policies Committee complied with this request.

After it issued its report to the local association and to the community, however, a majority of the members adopted a resolution over the objections of the officers of the local association, expressing disagreement with some parts of the report in general terms, and established a publicity committee to publicize this action of the local association.

Without advance notice to the Personnel Policies Committee, the local publicity committee issued a statement to the press condemning the report in general terms. Both the local and state associations had adopted the NEA Code of Ethics.

The pertinent provisions of the 1952 Code are Principle IV, Section 1, and Principle V, Section 2, which provide that a teacher will:

Section 1. Conduct professional business through the proper channels.

Section 2. Stand by other teachers who have acted on his behalf and at his request.

It is clear that by submitting their salary proposal directly to the board, without advance consultation with the superintendent, the representatives of the minority group failed to conduct professional business through proper channels, thus violating Principle IV, Section 1, of the 1952 Code.

In Opinion 7, the Ethics Committee noted that, where practicable, it is good procedure for teachers to present questions affecting the general welfare of the teaching staff to their local association for study

and action, and for the issues to be presented formally to the school authorities by the association. It recognized, however, that if the association fails to act favorably, teachers retain the right to state their views through proper channels within the school system.

If the minority group in this case proposed to submit a conflicting proposal, it should have made this intention known at the general meeting when action was taken on the proposal of the salary committee. Under the circumstances, the membership was entitled to assume that the minority group would support the proposal adopted by majority vote in spite of disagreement voiced at the meeting.

In presenting to the board the salary schedule that had been approved by a majority of the members present at a general meeting of the local association, the salary committee was, in effect, acting on behalf of and at the request of all the members.

In the opinion of the Ethics Committee, the minority group violated Principle V, Section 2, of the 1959 Code.

Under the facts stated, the community-wide release of a report by the Personnel Policies Committee raises no question of a violation of the Code. When such a committee responds to a request for an investigation, the constructive effect of any report issued depends in large part on its acceptance by the community. Consequently, the report should usually be made available to the group requesting the investigation and to the community at approximately the same time.

In Opinion 14, the Committee held that a local association is bound by the provisions of the Code. From the facts stated, it is not clear that the release of the condemnatory statement by the publicity committee of the local association was an act of the local association; it is assumed, however, that the release was an official act of the local association.

The issuance of this release tended to undermine the confidence of the community in the report of the state Personnel Policies Committee, and was in fact a violation of the requirement that a teacher stand by other teachers who have acted on his behalf and at his request.

If the local association disagreed with the report issued, it had every right to express its disagreement to the state Personnel Policies Committee. However, it had a concomitant obligation to point out to the state group any specific errors in the report on which this disagreement was based, before issuing the public release. If the response of the state Personnel Policies Committee was unsatisfactory, the local

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association would no longer be under ethical restraint from taking its case to the public.

The action of the local association in condemning the report publicly without first pointing out to the Personnel Policies Committee specific errors in the report on which this condemnation was based constituted a violation of Principle V, Section 2, of the 1952 Code.

OPINION 39

(May 1960)

CONFIDENTIAL INFORMATION ABOUT STUDENT, DUTY TO DISCLOSE—*A principal has an obligation to disclose confidential information about a pupil to a school counselor if access to the information is essential to the counselor's performance of his professional duties.*

Principle I, Sections 2, 5 (1952 Code)

Principle IV, Section 12 (1952 Code)

See Principle I, Sections 3, 7 (1968 Code)

Opinions 13, 24, 28

A classroom teacher requests an opinion on the following facts:

A boy attending High School A in a large school district who was a disciplinary problem in the school was convicted in Juvenile Court for petty larceny and carrying a concealed weapon without a permit. In view of the fact that this was his first offense, the court placed him on probation and made arrangements with the superintendent of schools to transfer the boy from High School A to High School B. The superintendent notified the principal of High School B of the reason for the transfer, but to protect the boy, made no notation on the boy's cumulative record.

The principal of High School B maintained the information about the boy in complete confidence, without disclosing it to the school counselor or any of the classroom teachers on the staff of High School B.

The boy continued to be a disciplinary problem and was referred to the school counselor. Shortly after his first consultation, during a school recess the boy attacked one of the pupils with a switchblade knife following a heated argument.

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Was the principal of High School B required under the NEA Code of Ethics to disclose to the school counselor or to the classroom teachers on the school staff the reason for the boy's transfer?

The pertinent provisions of the 1952 Code in this case are Sections 2 and 5 of Principle I and Section 12 of Principle IV, which provide that a teacher will:

Section 2. Recognize the differences among students and seek to meet their individual needs.

Section 5. Respect the right of every student to have confidential information about himself withheld except when its release is to authorized agencies or is required by law.

Section 12. Accept one's obligation to the employing board for maintaining a professional level of service.

In Opinion 13, the Ethics Committee recognized that on occasion a teacher has not only the right but the duty to confer in confidence with appropriate professional colleagues or authorized agencies regarding a child's problems in conduct and adjustment. The question here is whether the principal of High School B had a professional duty to confer in confidence with the school counselor or the classroom teachers on his staff regarding the information about the boy that he had received from the superintendent.

In the opinion of the Ethics Committee, the principal could ethically have divulged the information in confidence to the classroom teachers on the staff without violating the Code of Ethics. However, there is necessarily a wide margin for individual professional judgment in such matters, and under the facts in this case, the decision to withhold the information from the classroom teachers was within the discretion of the principal.

On the other hand, in the opinion of the Committee, the principal had an affirmative duty under the Code to disclose the confidential information to the school counselor, since access to such information was essential to the performance of his professional duties with respect to the pupil.

OPINION 40

(May 1960)

RELIGIOUS CONVERSION, HOME VISITATION FOR PURPOSE OF—*It is improper for an educator to try to convert to his*

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religious faith the parents of students to whom he has the relationship of teacher.

Principle II, Sections 2, 3 (1952 Code)

Principle III, Section 6 (1952 Code)

Principle IV, Section 10 (1952 Code)

See Principle I, Section 6 (1968 Code)

Opinions 5, 9, 18, 19

A superintendent of schools requests an opinion as to whether a teacher acted contrary to the Code of Ethics under the following circumstances:

A teacher was called by his church to visit homes in the community in which he teaches for the purpose of converting the residents to his religious faith. The teacher undertook the assignment. In connection with his work for the church, he left religious literature and instructional materials with the families he visited. On some of his visits he contacted the parents of children who attended the school where he taught and who were members of churches other than the one to which he belonged. Did the teacher violate the Code of Ethics?

The pertinent provisions of the 1952 Code governing the question are presented in Sections 2 and 3 of Principle II, Section 6 of Principle III, and Section 10 of Principle IV, which provide that a teacher will:

Section 2. ~~Seek to~~ establish friendly and cooperative relationships with the home.

Section 3. Help to increase the student's confidence in his own home and avoid disparaging remarks which might undermine that confidence.

Section 6. Work to improve education in the community and to strengthen the community's moral, spiritual, and intellectual life.

Section 10. Engage in no gainful employment, outside of his contract, where the employment affects adversely his professional status or impairs his standing with students, associates, and the community.

The Committee recognizes that participation in church activities in the community in which they live and work is one way in which teachers may fulfill their obligation "to improve education in the community and to strengthen the community's moral, spiritual, and

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intellectual life." Insofar as the visitations in general are concerned, the manner in which the activity was conducted would determine whether Sections 2 and 3 of Principle II were violated. Certainly it would be incumbent upon a teacher to exercise good judgment and extreme tact in making the visitations.

In the opinion of the Committee it would be impossible for a teacher to try to convert the parents of any child with whom he had the relationship of teacher, whether or not he was the classroom instructor of the child, without involving a violation of Section 2 and 3 of Principle II of the 1952 Code.

In Opinion 9 interpreting Section 10 of Principle IV of the Code, the Committee stated that, "Any solicitation of parents which is looked on with disfavor by them will inevitably affect the teacher's status in the community and can reflect adversely on the profession." Although the activity described in the case under consideration is assumed not to involve any financial gain, by analogy the Committee considers that it would be unethical for a teacher to attempt to convert others to his religious faith if his status as a teacher with respect to a member of the family might give him an influence which he would not otherwise have.

OPINION 41

(May 1962)

SICK LEAVE, PROPER USE OF—*Sick leave is to be used for the purpose for which it was granted. It is unethical to misuse sick leave time.*

Principle IV, Sections 6, 12 (1952 Code)

See Principle IV, Section 10 (1968 Code)

A teacher requests an opinion as to whether the following circumstances are in keeping with the Code of Ethics:

During six years service in District M a teacher accumulated fifty-six days of sick leave. He had frequently reported for duty when ill, believing his physical condition to be of little consequence in comparison to the needs of his students. In March of the sixth year, in response to applications, he received tentative offers from several schools in the area. During April and May

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he reported himself ill on eight separate occasions. It was later established that he had left the district for personal interviews in other schools on more than one of these days.

The pertinent provisions of the 1952 Code are Sections 6 and 12 of Principle IV, which state that a teacher will:

Section 6. Adhere to the conditions of a contract. . . .

Section 12. Accept one's obligation to the employing board for maintaining a professional level of service.

With the encouragement of the National Education Association, virtually all school districts have policies that provide for payment of full salary while absent from work during or while recovering from illness. The provisions vary widely from a specified number of days per year noncumulative to unlimited amounts of time. A common practice is to provide a certain number of days per year with a provision for the cumulation of time not used. In addition, some districts have a provision for time off for personal business which is included as a part of sick leave time. This opinion does not deal with such special cases except where use may be contrary to the intent of the district. Essentially, the purposes of generous sick leave provisions are to improve the morale and efficiency of the teacher and to protect the health of both pupil and teacher against unnecessary hazard. Both reasons are essential to strengthening the instructional program.

Adherence to the policies of the school district is a contractual obligation. Therefore, a professional level of service precludes any but the intended purpose of sick leave time. Sick leave time, either cumulative or noncumulative, is not leave time in the usual sense. Instead, it should be regarded as another form of insurance which is designed to provide for a time of illness. Certainly, the teacher has no inherent right to be compensated for unused sick leave time. The Committee notes that the improper use of sick leave often involves outright prevarication. One cannot envision the time when total disregard of the truth can be justified.

It is the opinion of the Committee that conscientious use of sick leave provisions is essential if professional integrity is to be maintained. Teachers who thereby endanger the health of children are displaying very little more ethical behavior than teachers who use sick leave time for unauthorized purposes. In neither case can such action be condoned by the profession.

OPINION 42

(July 1963)

CITIZENSHIP, RIGHTS OF—*It is improper to use school facilities to solicit funds in behalf of candidates for public office on school property during school time.*

See Principle II, Sections 5, 6 (1963 Code)

Opinions 26, 32

See Principle II, Section 4 (1968 Code)

A teachers association requests an opinion on the following facts:

During a nonpartisan campaign for public office, a teacher (on school time) used school facilities to print and distribute among faculty members a request for funds to be used to assist one of the candidates, the money to be delivered to his classroom. When queried about the propriety of such action, the teacher replied that such solicitations did not constitute campaign literature, and in addition, since he had no influence in the hiring and firing of personnel, he saw no impropriety in asking for free-will donations.

Principle II, Sections 5 and 6, of the Code of Ethics of the Education Profession provide that an educator will:

Section 5. Use educational facilities for intended purposes consistent with applicable policy, law, and regulation.

Section 6. Assume full political and citizenship responsibilities, but refrain from exploiting the institutional privileges of our professional positions to promote political candidates or partisan activities.

In Opinion 32 the Committee pointed out that it is improper to distribute campaign literature on school property and on school time. It is the opinion of the Committee that there is no essential difference between soliciting campaign funds and distributing campaign literature.

There is little question that fund solicitations from an administrator might elicit a greater response than a request from a peer. However, the basic question revolves about the proper use of school time and facilities by professional personnel, without regard for position. Opinions 26 and 32 emphasize that "the public schools belong to all the

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people, and any attempt to use them as a vehicle for promoting political candidates is almost certain to create ill will among parents and taxpayers and to reflect adversely on the profession." The essential guideline to be used in such matters is whether the member of the teaching profession is employing time and facilities that are not normally available to the general electorate for political activities.

OPINION 43

(October 1963)

CONTRACTS, OFFERS TO EDUCATORS ON CONTINUING—

It is improper for an administrator to make a firm offer to an educator on a continuing contract of a position that requires service to begin within less than thirty days without first securing the assent of the administration of the district holding the educator's current contract.

Principle IV, Sections 4, 5 (1963 Code)

Opinions 12, 15, 17, 34

Principle IV, Sections 4, 6 (1968 Code)

A newly appointed superintendent requests advice on the following statement of facts:

Two weeks prior to the opening of school, Mr. A, a junior high school principal who is on continuing contract, notifies the personnel office that he has been offered a position that represents an opportunity for substantial professional improvement. Mr. A would like to resign immediately in order to accept the other position.

The superintendent feels that he is faced with two alternatives. He may recommend the acceptance of the resignation which then constitutes "mutual consent" which is necessary to void the contract. However, if he does so, he has little or no prospect of finding on such short notice a competent principal to fill the vacancy. If the director of personnel recommends holding Mr. A to his contractual obligations, he is faced with the possible consequence of inflicting the services of a dissatisfied administrator on approximately fifty teachers and twelve hundred students.

The pertinent provisions in the Code are Sections 4 and 5 of Principle IV, which provide that we:

Section 4. Adhere to the conditions of a contract or to the terms of an appointment until either has been terminated legally or by mutual consent.

Section 5. Give prompt notice of any change in availability of service, in status of applications, or in change of position.

Further, the Code provides in Principle III, Section 2, that we:

Participate and conduct ourselves in a responsible manner in the development and implementation of policies affecting education.

Opinion 15 clearly sets forth the obligation of an educator to discontinue immediately any further contract negotiations with other school systems or institutions once a firm contractual agreement is made. However, the continuing contract, particularly when the law requires early notification of the intent to return, creates a somewhat differing situation. In Opinion 34, the Committee clearly acknowledged the necessity of honoring such contracts in the event that the governing board so insists. Such insistence will rarely occur if ample notice is given by the educator. Arbitrary or capricious administrative recommendations which serve to block opportunities for legitimate professional advancement may be appealed under Principle III, Section 4, of the Code, that requires that administrators "accord just and equitable treatment to all members of the profession in the exercise of their professional rights. . . ."

Based on the facts presented above, two weeks before the opening of school does not constitute ample notice. The interpretation of what constitutes ample notice must rely upon the specific facts in each case. In this instance, a resignation submitted at that time promises to work an undue hardship on the educational program of the district. Tenure and continuing contract legislation represents a hard won professional right in many states. Irresponsible conduct by those benefited invites serious modification in such laws which may well weaken the professional position. The Committee does not feel that Mr. A acted responsibly under Principle III, Section 2, of the Code.

There remains an even more disturbing element in the case which was not touched upon in the facts as presented. The Committee finds

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it difficult to believe that the administrative officers of School System Y were unaware of Mr. A's job status at the time they extended their offer to him. Certainly it is assumed that a good administration has rather complete knowledge about a candidate to whom they offer a position, especially one which holds the responsibilities implied in this case. In the opinion of the Committee, it is clearly unethical for an administrator to offer a position to an educator already under contract that will become effective on less than a month's notice, without first securing the affirmative permission of the chief school officer of the system holding the contract.

If the administrator of School System Y had followed proper procedure and obtained the permission of the employing district before making a firm offer to Mr. A, the permission would either have been denied on the grounds of damage to the educational program, or more likely, a compromise arrangement equitable to both districts and the principal would have been negotiated. Even if permission had been denied, a great deal of needless embarrassment and hard feelings would have been spared.

Generally, it is impracticable for a school district to spend public funds to attempt to enforce teaching contracts through the courts. Irresponsible dealings in contracts can only be remedied effectively through professional channels. No relief can be expected until such time as administrative officers gain sufficient confidence in these channels that they will take the time and trouble to initiate cases involving both administrators who create such a situation as that described and those who jump contracts. Failure to do so on their part is a disservice to the profession.

OPINION 44

(February 1964)

EMPLOYMENT APPLICATION FORMS, QUESTIONS OF RACE AND RELIGION—*Insofar as the responsibility for the content of employment application forms is that of educators, it is unprofessional to include on such forms questions concerning the race and/or religion of applicants.*

Principle IV, Section 1 (1963 Code)

Principle IV, Section 1 (1968 Code)

A student teacher inquires whether the following situation is consistent with the Code of Ethics of the Education Profession:

The employment application form of District A contains questions asking about a candidate's race and religion.

The pertinent provision of the Code is Principle IV, Section 1, which states that we as members of the profession:

Apply for or offer a position on the basis of professional and legal qualifications.

The responsibility for the content of the questions on an application form rests with the board of education. Opinions 4 and 10 make abundantly clear that a code of ethics for professional educators is not binding upon members of school boards. On the other hand, school boards should not establish requirements in dealing with professional educators that are inconsistent with professionally ethical practices.

Furthermore, legislation in many states prohibits such questions on application forms and, in some cases, also prohibits the practice of requesting a personal photograph to be submitted with the initial application.

The Code does not say that "professional and legal" qualifications are the only factors to be considered. The intent of Principle IV, Section 1, is to put primary emphasis in the employment process on professional competency. The Committee is of the opinion that any screening process that gives primary consideration to factors other than those directly related to competency is not in keeping with the best professional practice. Where the professional staff alone is responsible for such questions on the application form, the staff is acting unethically.

The Committee sincerely hopes that school board members will join with members of the profession to eradicate such employment practices before legislation is required to do what those involved in education should have foreseen and remedied in advance of the need.

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OPINION 45

(February 1964)

TEACHER EVALUATION, BY INTERCOM—*The practice of monitoring a classroom without the knowledge of the teacher is unethical. The practice of criticizing teachers via the intercommunication system is clearly unethical.*

See Principle III, Section 4 (1963 Code)

Opinions 20, 36, and 38

See Principle III, Sections 2, 4 (1968 Code)

Teachers inquire about certain practices that have developed in the use of school intercommunication equipment. Some specific recurring questions are:

Is it unethical to monitor a classroom without the knowledge of the teacher?

Is it unethical to use the intercommunication system to remind teachers by name of infractions of school rules?

Is the indiscriminate use of the intercommunication system to make announcements at any time during the teaching day a matter of ethics?

The Committee stated in Opinion 20 that the 1952 NEA Code of Ethics had no specific provision on which to base an opinion concerning the use of such equipment for the purpose of monitoring a class without the knowledge of the teacher. The Committee believes, however, that Principle III, Section 4, of the recently adopted Code of Ethics of the Education Profession is pertinent to the first two questions. Principle II⁴, Section 4 states that we in the profession:

Accord just and equitable treatment to all members of the profession in the exercise of their professional rights and responsibilities and support them when unjustly accused or mistreated.

The practice of monitoring a classroom without the knowledge of the teacher is, therefore, a violation of Principle III, Section 4.

Embarrassing an educator by fault-finding in front of students or other educators is universally rejected. In using the intercommunication system, particular care must be exercised in directing critical remarks to educators, since it is uncertain who besides the educator

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may be listening. The Committee finds the practice of criticizing teachers via the intercommunication system clearly in contravention of Principle III, Section 4.

The final question about frequent interruptions of classes with general announcements must be classified as a matter of administrative procedure rather than one of ethics. Intercommunication systems are intended to expedite the management of the school, but not at the expense of the learning process. Professional staffs may find it profitable to make a detailed study of the number and types of interruptions that arise from all sources. Elimination of unnecessary announcements can frequently benefit the instructional program.

Intercommunication systems are normally the responsibility of the building principal. Often he may be unaware of abuses, but he must ultimately assume the responsibility if abuses do occur. When abuses do happen, the situation should be called to his attention so that members of the profession may carry out their responsibilities in an unfettered atmosphere.

OPINION 46

(February 1964)

AUDIOVISUAL MATERIALS, MISUSE OF—*Those who produce instructional materials for sale purposes to earn a profit should not be expected to subsidize a school district program that does not elect to provide audiovisual materials in sufficient measure. "Standards of fair use" should be observed by educators.*

See Principle III, Section 10 (1963 Code)

Principle I, Section 10

See Principle II, Section 2 (1968 Code)

A teacher requests advice on the following situation:

A teacher with relatively little experience was placed as the school district's audiovisual coordinator. The budget for audiovisual materials was extremely limited so that the coordinator had difficulty in meeting the film requests of others on the staff.

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A number of film distributors make a practice of permitting a ten-day trial period to examine the worth of the product. If the district decides to purchase the film, it keeps the film and pays the bill; otherwise it may return the film with no obligation. To compensate for the limited budget, the coordinator ordered a number of films, showed them widely throughout the district, and then returned them before the expiration of the ten-day trial period. The practice became known when the coordinator began urging that others on limited audiovisual budgets use this approach as a useful budget stretcher.

The Committee finds the practice a violation of Principle III, Section 10, of the Code of Ethics of the Education Profession, which states that we:

Interpret and use the writings of others and the findings of educational research with intellectual honesty.

The Committee on Professional Ethics recognizes that those who produce instructional materials for sale purposes do so to earn a profit. Such producers often spend large amounts of money on product research and development. They should not be expected to subsidize a school district program that does not elect to provide audiovisual materials in sufficient measure.

If this teacher's misuse of the trial period became widespread, it would either drive the reputable producers from the market, or the industry would have to rescind a practice which assures a more intelligent selection of materials. In either case, both the profession and the educational program would be penalized by those unwilling to allow a company to earn a reasonable rate of return on its investment. This is also true of those who, without permission, make and distribute tape recordings of records and tapes produced commercially for school use.

The audiovisual coordinator has a responsibility to call the attention of responsible administrators to the situation so that it can be remedied in future budgets. This obligation is stated in Principle I, Section 10, which states that we:

Seek constantly to improve learning facilities and opportunities.

OPINION 47

(October 1964)

ATTENDANCE FIGURES, FALSIFICATION OF—*Members of the profession who participate in reporting false attendance figures are in violation of ethical practice. Educators, as public officials, have an obligation to observe the laws relating to state financing of public schools.*

See Principle III, Section 2 (1963 Code)

Opinions 2, 14, and 41

See Principle II, Section 2 (1968 Code)

An inquiry conducted by the NEA Commission on Professional Rights and Responsibilities revealed the following facts:

Financial aid to local school districts in State A is based upon a formula involving average daily attendance. In District Y it became customary to exaggerate attendance figures in the realization that the greater the reported attendance, the more state funds would be received. The practice was common, although not necessarily universal in the district. As new educators entered the district, they were enlightened about the practice by those with experience.

Mr. W., a new superintendent, discovered shortly after taking office that the attendance figures he had to certify as true and accurate were indeed false. The superintendent found that false attendance figures had been submitted to the state department with the full knowledge of the local board of education. Afraid that any precipitous action on his part might well cost him his position, as it would have his predecessor or any of the principals or classroom teachers involved, he nevertheless undertook independently to adjust the report and gradually rectify the situation.

Before he could complete his task, however, the falsification of the records came to the attention of the state board of education, which, exercising its statutory authority, fined the superintendent and his predecessor and placed them on probation. The state board took no action in regard to the other educators who had been involved or against the members of the school board, who, at the very least, condoned the practice by their silence.

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The opinion of the NEA Ethics Committee is that all the members of the profession who participated in reporting false attendance figures were in violation of Principle III, Section 2, which states that we—

Participate and conduct ourselves in a responsible manner in the development and implementation of policies affecting education.

The chief administrators have been disciplined according to the law. The NEA Ethics Committee believes that the superintendents in this instance have been sufficiently penalized. The Committee, however, cannot condone the actions of the others involved in this case.

As inequitable or as unjust or even as inadequate as the state aid formula may be to any one school district, educators, as public officials, have an obligation to observe these laws relating to state financing of public schools. Further, school boards are legally responsible for operating the schools and are equally culpable in such a situation.

Those who framed the Code did not believe it necessary to include a policy calling for honesty in regard to the conduct of school affairs. Nevertheless, the Committee wishes to enunciate the ethical responsibility of educators to be scrupulous in pupil accounting, financial reporting, and all other necessary reporting.

When doubt exists about the propriety of a certain practice, it is often best to seek the advice and assistance of the appropriate local association committee. An effective local association can protect the interests of the individual and yet eliminate the practice. When this recourse is not available, the individual should be able to seek remedy through his state or national associations. Had the superintendent sought such help at the time he first became aware of the situation, many of his problems might have been avoided.

The basic purpose of the Code of Ethics is to raise professional standards. The investigation and the attendant publicity in the state where the case occurred have served to alert those immediately involved to their responsibilities. The purpose of this opinion is to provide guidance to others who may now or in the future become involved in a similar situation.

OPINION 48

(March 1965)

COERCION OF SUBORDINATES TO JOIN—*Professional organizations, to be effective and meaningful to their members, must be voluntary and emphasize the improvement of service. The administrator who coerces his subordinate to join an association by threatening or implying professional retaliation has acted improperly.*

See Principle III, Section 7 (1963 Code)

Opinion 49

See Principle III, Section 3 (1968 Code)

An educator inquires about the application of the Code of Ethics of the Education Profession to the following situation:

Six weeks after assuming a new teaching position, Mr. A. was approached by his building representative and asked to join the local, state, and national professional organizations. The school had had a record for some years of 100 percent membership in all three organizations. By an overwhelming vote the teachers had indicated their desire to maintain this record. Mr. A. joined the local association but stated that in good conscience he could not join either the state or national associations. Shortly afterwards he was invited to the principal's office to discuss his objections. During the interview with the principal, it was made clear to Mr. A. that the possibility of continued employment might be adversely affected by his failure to join all three professional associations. Mr. A. joined the state and national organizations and then filed a request for information about the ethics of the circumstances.

The question posed relates specifically to Principle III, Section 7, which states that we—

Refrain from exerting undue influence based on the authority of our positions in the determination of professional decisions by colleagues.

One hallmark of the voluntary associations in the profession is that they are essentially devoted to the improvement of service. This is

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true of education as it pertains to local, state, and national associations. Such organizations, to be effective and meaningful to their members, must be voluntary and emphasize the improvement of service.

The NEA Committee on Professional Ethics believes that the cost of improvements in the profession should be shared by all members of the profession. However, the Committee must find that the administrator who coerced his subordinate to join an association by threatening or implying professional retaliation has acted contrary to Principle III, Section 7.

In so finding, the Committee does not advocate neutralism on the subject of membership. Educators, regardless of position, have a leadership responsibility to advocate their beliefs. However, the Committee believes that it is possible to distinguish between professional leadership and coercion so that members and prospective members of professional associations recognize clearly that the profession benefits from the unified efforts of all to improve education and the service rendered to students, parents, and the local community.

OPINION 49

(March 1965)

STUDENT'S GRADE, CHANGING OF—*Professional autonomy involves the principle that the best results in education are obtained when decisions are left to people who are best informed about them. Alteration of a professional decision can properly stem only from clear evidence of incompetence, the presence of bias, or indications of unethical behavior.*

See Principle III, Section 7 (1963 Code)

Opinion 48

See Principle III, Section 3 (1968 Code)

A local association submitted the following statement with a request for an opinion:

A high school senior, enrolled in an elective course in advanced mathematics, was warned several times during the year by his teacher and the senior counselor that he was on the verge of

failing. He needed the unit credit in order to fulfill graduation requirements. His marks did not improve materially.

Mr. A, the teacher, calculated the final grade in the same manner that he did for all other students. His method consisted of weighing various grades on papers, daily assignments, recitation, and test scores. He then turned in a grade of 72 for the student. The minimum mark necessary in this school district for course credit was 75. The student had successfully completed all other graduation requirements. In the language and social studies areas, the student had made an outstanding record, although his record in science and math had not been notable.

The principal conferred at length with Mr. A. As a result, the teacher carefully reviewed the student's work and grades. He then reaffirmed his original decision to assign a grade of 72. The principal, in accordance with the district policy, proceeded to notify the superintendent of the situation. After consultation with the principal, the superintendent discussed the problem at length with Mr. A.

Finally, the superintendent instructed the principal to change the report card and transcript in such a manner as to show that the administration gave a passing grade for the course. The change was made so that it clearly indicated that the final grade was determined by the superintendent. The student went on to graduate, and the teacher appealed to the ethics committee of the local association on the ground that the superintendent had violated Principle III, Section 7, of the Code of Ethics of the Education Profession.

Principle III, Section 7, states that we:

Refrain from exerting undue influence based on the authority of our positions in the determination of professional decisions by colleagues.

A local school board is customarily granted broad discretionary legal powers by the state to determine policies related to academic standards and educational program. Policies such as grading standards are adopted by the board of education and may be altered by the board. Sound practice dictates that the board, in turn, delegates the implementation of these standards and programs to its executive officer.

It is the opinion of the NEA Committee on Professional Ethics that the superintendent behaved unethically in this case, under Principle

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III, Section 7. In the Committee's judgment, administrative influence, as described in this instance, tends to undermine if not destroy the total evaluation system in a school district.

With all legal provisions considered, the superintendent must support the professional decision that will serve the student, all students, and the community best. Professional autonomy involves the principle that the best results in education are obtained when decisions are left to people who are best informed about them. This in no way purports to remove all error in school district actions, but will effectively reduce error to the minimum.

Alteration of a professional decision can properly stem only from clear evidence of incompetence, the presence of bias, or indications of unethical behavior. In these kinds of unusual circumstances, decisions should be submitted to a professional review. A question of particular relevance will always be: Is this a competent judgment and not merely a judgment that avoids the unpopular or the controversial?

In the case cited, the teacher made a professional decision based upon his evaluating relationship with the student over a period of a full academic year. The failing grade developed from no one measure but rather from a variety of measures, all giving weight to the judgment that the student was not achieving up to an appropriate standard. Investigation revealed no evidence of incompetency on the part of the teacher and, further, no indication of a biased judgment in weighing the student's course work.

In matters of this nature, the teacher has an obligation to inform the student and parents, at an early time, concerning the future implications of a continuation of existing low achievement. Supervisors have an obligation to review carefully, and also at an early time, the raw materials which contribute to these potentially explosive occurrences. And finally, the student has an obligation to select his courses with all care and once a chosen path is set, to deliver his full efforts to attain at least an acceptable standard of achievement.

OPINION 50

(February 1966)

GIFTS, ACCEPTANCE OF—*The educator is obliged to present skilled service to the maximum of his ability despite any per-*

sonal reaction to the student. The term gratuities or gifts must be seen as kinds of favors or considerations, in the larger sense, that may have the power to improperly influence skilled service. It is not only important that the teacher's professional judgment remain unbiased, it is equally important that it appear unbiased to the potential observer.

Principle IV, Section 7 (1963 Code)

See Principle III, Section 5 (1968 Code)

Elementary school faculty members request an opinion on the following problem:

A third grade teacher in this school was the frequent recipient of gifts, some fairly substantial, from her pupils. Each year there was a Christmas and an Easter party, with a gift from each pupil to the teacher. Also, each new class seemed, somehow, to be aware of the birthday and wedding anniversary dates of the teacher, with compensatory results for her. At times, too, the appeal was even more direct when the teacher mentioned before the class that this or that nice gift had been given to her by some member of a previous class. Efforts were made to abate the practice, but the practice continued and there were complaints from parents. Despite general opposition from the members of the staff, the practice tended to spread.

In the opinion of the Committee, the course of conduct here is a clear-cut violation of Principle IV, Section 7, of the Code of Ethics of the Education Profession, which states that teachers should:

Accept no gratuities or gifts of significance that might influence our judgment in the exercise of our professional duties.

It is not the wish of the Committee to cast a suspicious eye upon sincere expressions of affectionate regard or appreciation for services rendered which might be shown teachers by students, parents, or other pleased members of the community. The Committee believes that there is a need to delineate some of the ethical principles that support this section of the Code and to clarify, to some extent, the language of this section.

The educator is obliged to present skilled service to the maximum of his ability despite any personal reaction to the student. *Who* comes

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for instruction must be subordinate to *why* he comes. The term gratuities or gifts must be seen as kinds of favors or considerations (in the larger sense) that may have the power to improperly influence skilled service by making it appear as though some students are good, but that other students are better.

The term "gifts of significance" refers to the fact that a token gift or a bribe can sometimes be differentiated by its value. However, it must be clear that what to one might appear token, to another appears significant. It is not only important that the teacher's professional judgment remain unbiased, it is equally important that it appear unbiased to the potential observer. If the token gift is proffered at a time when judgment cannot be influenced, it is less likely to pose an ethical question.

The problems of influence peddling, conflict of interest, and exploitation of trust have long been a concern of the legal profession and governmental officials. The Committee has reason to believe that these problems should be more clearly understood by educators. Schools today are surely big business—educators will be increasingly the focus of interest of the college recruiter and of the seller of books, athletic goods, office supplies, buses, insurance, plumbing supplies, and graduation pictures.

As a strong deterrent to having unethical practices develop under these circumstances, the Committee recommends that written personnel policies be cooperatively agreed upon by the teachers in each school district and adopted by the local board of education. A clear-cut policy statement on the acceptance of favors or considerations by professional employees might have prevented the situation in the elementary school in question and would certainly prove most helpful in confronting similar problems as they may occur.

In the absence of personnel policies, the Committee would suggest consideration of the following questions to help determine the ethical propriety of accepting gifts and gratuities. Affirmative answers would indicate that a gift or gratuity should not be accepted.

Might a reasonable person interpret a favor or consideration as capable of influencing professional judgment?

Would the teacher be unwilling to have it be widely known that the gift had been received and accepted?

Is there reason to believe that the giver expects something in return?

OPINION 51

(July 1966)

CONFIDENTIAL INFORMATION, EXCHANGING—*Even though the exchange of confidential information is necessary for professional purposes, the failure to provide safeguards against indiscriminate disclosure constitutes an ethical violation.*

Principle I, Section 3 (1963 Code)

Principle III, Section 8 (1963 Code)

Principle I, Sections 4, 7 (1968 Code)

A principal wanted to be sure that all teachers in the school were aware of health defects and health conditions that existed in the pupil population. He was particularly concerned about those conditions that might have a bearing on the teaching-learning situation as well as the safety and general welfare of the students. He asked a team of student aides to go to work on the project—medical records were studied, and lists were prepared (from anemias to vaginitis, from vertigo to boils, and a fair scattering of epilepsy, diabetes, hernia, neurosis, pregnancy, and rheumatic fever). Other aides worked on the typing, duplication, and distribution of information to teachers in the school. The students had been carefully selected and carried out the task with a high degree of maturity and discretion. However, there were some slips followed inevitably by gossip, hurt feelings, and distrust. A teacher wrote to the Committee and asked for guidelines relating to the disclosure of confidential information.

Principle III, Section 8, of the Code of Ethics of the Education Profession states: "Keep the trust under which confidential information is exchanged."

It is the view of the Committee on Professional Ethics that the described fact-situation represents a flagrant disregard of our ethical obligations.

It is widely accepted today that it is in the student's interest and frequently in the larger public interest that certain kinds of confidential health information about a student be divulged. Disclosures should be for a specific purpose, however, aimed at an audience directly concerned, and procedural safeguards should be carefully designed. Educators are cautioned to apply due care to the preservation and eventual disposition of confidential records.

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Two overlapping ethical principles are involved in interpreting this section of the Code. One Principle deals with the matter of a confidential communication between teacher and student (Principle I, Section 3 of the 1963 Code:

Withhold confidential information about a student or his home unless we deem that its release serves professional purposes, benefits the student, or is required by law.)

and the other with permissible disclosure of confidential information. The professional educator is obligated to safeguard information about a student, obtained in the course of his work. The learning environment requires a special kind of rapport between teacher and student.

A growing trust tends to enrich this relationship and a lessening of trust and confidence does damage to the relationship.

With reference to Section 8, the Committee asserts that information is not communicated to others unless the following important conditions are met:

1. if disclosure should serve professional purposes and is restricted to persons clearly concerned (as in consultation with another teacher who has a duty to the pupil).
2. if disclosure could be considered to raise a clear and imminent danger to the individual or to the public (in a fit of depression, the student reveals a pre-occupation with suicide).
3. if communication is required by law (the student has a serious communicable disease).
4. generally, if the disclosure serves the student's interests better than non-disclosure.
5. if, where possible, the student should be notified of the decision to make a permissible disclosure.

OPINION 52

(June 1966)

DISMISSAL, REASONS FOR—*It is improper for an administrator to refuse to provide, on request from the aggrieved party, a written statement of the reasons for recommendations which affected that party's employment.*

Principle III, Section 6 (1963 Code)

Principle III, Section 6 (1968 Code)

A teacher submits the following information and question to the NEA Committee on Professional Ethics:

I am a "non-tenure teacher." After the spring school board meeting I received a notice from the superintendent that the board had voted not to renew my contract for the coming year. I have written to the superintendent to ask why I am not being re-employed, but the superintendent has contended that he is not legally required to give me a reason under the law. Don't I have a right to know why I am being fired?

In answering this question, the Ethics Committee must point out that the Code of Ethics of the Education Profession is applicable to all members of the profession, but not to laymen such as members of the board of education. While the Code of Ethics of the National School Boards Association might apply, "To bear in mind under all circumstances that the primary function of the Board is to establish the policies by which the schools are to be administered, but that the administration of the educational program and the conduct of school business shall be left to the employed superintendent of schools and his professional and non-professional staff," the ethics committee of the profession is not in a position to implement the school board code. Regrettably, it is true that state statute in many areas does not require that reasons be given for contract non-renewal or dismissal.

The superintendent is a professional educator, bound by the Code of the profession (and if a member of the American Association of School Administrators, AASA, he would also be guided by its Code). As the administrator of the school system he would be expected to exert considerable influence on the decisions of the board concerning personnel. If the superintendent made recommendations to the board which influenced the board's decision, he is obligated by Principle III, Section 6, to "provide, upon request, a statement of specific reasons for administrative recommendations that lead to termination of employment;" and under the AASA Code, "exhibits ethical behavior by explaining and giving reasons to individuals affected by demotions or termination of employment."

If the board acted independently on the superintendent's recommendation, the Code of Ethics of the profession cannot compel them to pro-

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vide a statement of reasons. However, an appropriate section of the AASA Code states, "If a situation develops whereby an administrator feels that to retain his position would necessitate that he violate what he and other members of the profession consider to be ethical conduct, he should inform the board of the untenable position . . . if the situation is not resolved to his professional satisfaction, he should report to the public." If a school board can be shown to have made a discriminatory or arbitrary decision in a dismissal dispute, legal relief may need to be sought or a professional sanction may need to be applied

OPINION 53

(March 1967)

SPEECH, PROHIBITED—*It is improper to use coercive means to restrain the full and free expression of opinion by a colleague, even though that expression may be controversial or unorthodox.*

Principle III, Sections 4, 7 (1963 Code)

Principle III, Sections 2, 3 (1968 Code)

The Professional Rights and Responsibilities Committee of an affiliated state association presented the following fact situation to the NEA Committee on Professional Ethics for interpretation:

In a town newspaper release, a reporter quoted Teacher A as saying in an interview, "In my opinion, the president of our education association has committed a serious blunder in openly taking a partisan position in the up-coming school board election." The local president felt seriously threatened by what he considered to be an attack with a purpose of unseating him as a leader in the association.

The president prepared a news release that stated, in part, "Teacher A's recent statement about me in the *Chronicle* is a vicious and flagrant violation of ethical responsibility. The association has brought charges against Teacher A, and he will be disciplined professionally." This statement was not true. The president had taken no steps through professional channels to effect a resolution of the dispute. Teacher A communicated with the state association, asking about the ethical propriety of his own expres-

sion, and whether or not he had grounds for counteraction against the president.

In the opinion of the Committee, the conduct of the president violates Principle III, Section 4 of the Code of Ethics of the Education Profession, which states that in fulfilling our obligation to the profession, we:

Accord just and equitable treatment to all members of the profession in the exercise of their professional rights and responsibilities, and support them when unjustly accused or mistreated.

Generally, the Committee on Professional Ethics supports the principle that restrictions on teacher speech are detrimental to the full flow of ideas and the seeking after truth so important to the school and college environment. However, some forms of expression are so implicitly coercive or intimidating that their continuance becomes a form of prior restraint and therefore tends to restrict or inhibit free expression. Potential speakers may then prefer silence to risking threat to their job or professional reputation.

Such coercive restriction on speech, in the opinion of the Committee, was the intent of the president and, therefore, is a violation of Principle III, Section 4. He was using the newspaper as a "trial device" to accuse and find guilty an individual with whom he had a personal disagreement.

The Committee believes that "just and equitable treatment" requires that we avoid making statements that are knowingly false or represent a reckless disregard of the consequences whether false or not. Malicious or unfounded accusations made with a purpose of creating doubt as to professional competence or ethical propriety of a fellow professional are proscribed.

Principle III, Section 7, states that as members of the profession we:

Refrain from exerting undue influence based on the authority of our positions in the determination of professional decisions by colleagues.

This section may also be interpreted as prohibiting the described behavior of the association president.

The Committee considers Teacher A's statement to the reporter as a full and free expression of responsible opinion within the profes-

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sion, and it should be protected as such. The fact that the speech is controversial or unorthodox (if that be the case) is not judged a proper ground for suppression.

It should be quite clearly understood that there is no intent to imply that the president had no right to defend his position before the membership or the public. A variety of avenues of reply were open to the president, and various kinds of statements could properly have been made which would not have been improperly intimidating. The Committee cannot condone expressions the deliberate intent of which is to intimidate another.

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